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ABSTRACT

This workshop package is designed to assist those persons responsible for the implementation of Title IX of the Education Amendments of 1972 in elementary and secondary school settings. The objectives of this second workshop session include helping participants to: (1) review requirements of the regulation to implement Title IX; (2) assess their own understandings of Title IX; (3) understand the significance of Title IX grievance procedures; (4) gain information regarding the structural components of effective grievance procedures; (5) develop skills related to potential responsibilities for grievance problem solving; and (6) increase skills in identifying Title IX violations and in formulating corrective or remedial actions. Additionally, a comprehensive, step-by-step session outline and participant worksheets are provided as aids for workshop facilitators. (Author/HLM)

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IMPLEMENTING TITLE IX AND ATTAINING SEX EQUITY:
A WORKSHOP PACKAGE FOR ELEMENTARY-SECONDARY EDUCATORS

Shirley McCune and Martha Matthews, Coeditors

THE TITLE IX REGULATION AND GRIEVANCE PROCESS
Outline and Participants' Materials for Generic Session Two
Martha Matthews, author

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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Prepared for the
Title IX Equity Workshops Project
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By the
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National Foundation for the Improvement of Education

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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Preface

This session outline and the accompanying participant materials comprise one component of a multicomponent workshop package developed by the Resource Center on Sex Roles in Education under a subcontract with the Council of Chief State School Officers (CCSSO). This package, entitled Implementing Title IX and Attaining Sex Equity: A Workshop Package for Elementary-Secondary Educators, is designed for use by persons implementing training or staff development efforts for education personnel and interested citizens in the implementation of Title IX of the Education Amendments of 1972 and the attainment of sex equity in elementary-secondary schools.

The workshop package was field-tested by subcontractors in 11 regional workshops as a part of the CCSSO Title IX Equity Workshops Project. This project was funded under contract 300-76-0456 with the Women's Program Staff, U.S. Office of Education, Department of Health, Education, and Welfare. Funds to support the printing of participant materials used in the field-test workshops were provided by the National Institute of Education, Department of Health, Education, and Welfare.

Shirley McCune and Martha Matthews are the coeditors of the Workshop Package. This session outline and participant materials were developed by Martha Matthews; Martha Matthews' time was partially supported by funds from the Ford Foundation. Persons who have authored or contributed to other outlines and materials within the total package include: Linda Stebbins, Nancy Ames, and Illana Rhodes (Abt Associates, Cambridge, Mass.); Judy Cusick, Joyce Kaser, and Kent Boesdorfer (Resource Center on Sex Roles in Education, Washington, D.C.); Myra Sadker and David Sadker (American University, Washington, D.C.); Barb Landers (California State Department of Education, Sacramento, California); and Janice Birk (University of Maryland, College Park, Md).

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September 1978

IMPLEMENTING TITLE IX AND ATTAINING SEX EQUITY:
THE TITLE IX REGULATION AND GRIEVANCE PROCESS

Outline and Participants' Materials for Generic Session Two

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THE TITLE IX REGULATION AND GRIEVANCE PROCESS

Introductory Materials

Prepared for the
Title IX Equity Workshops Project
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by the
Resource Center on Sex Roles in Education
National Foundation for the Improvement of Education

IMPLEMENTING TITLE IX AND ATTAINING SEX EQUITY: AN INTRODUCTION TO THE WORKSHOP PACKAGE

Introduction

Title IX of the Education Amendments of 1972, the Federal law which prohibits sex discrimination against the students and employees of education agencies and institutions receiving Federal financial assistance, was enacted in June 1972; the regulation to implement the legislation, which defines the specific criteria against which nondiscrimination is to be assessed in the various policies and practices of education agencies and institutions, was issued in June 1975 and became effective in July of that year. Despite the passage of years, however, full compliance with Title IX is far from a reality in most agencies and institutions throughout the country, and equity for females and males in education has yet to be attained.

Although significant progress has been made in a number of schools and school systems--the basic required Title IX compliance procedures have been implemented, students and employees describe their "increased awareness" of the problems of sex stereotyping and sex discrimination, and concrete improvements are apparent with regard to equalization of athletic budgets for female and male sports or to integration of previously sex-segregated courses--in most cases, considerable change remains to be made if full compliance and sex equity are to be integrated and reflected throughout the policies, programs, and practices of an education agency or institution.

If the necessary change is to occur, educators must move beyond paper compliance and problem awareness in order to develop the skills and competencies required for problem solution. Educators, like all other human beings, need support and direction if they are to translate legislative or administrative mandates for change into the actual delivery of nondiscriminatory and sex equitable services.

Many methods may be used to support educators in the change process--written information may be distributed, consultation may be made available, briefings or meetings may be conducted, training programs may be implemented, demonstration programs may be undertaken, and evaluation and reinforcement systems may be installed. The needs and resources of a particular education agency or institution will determine the forms of support which are most appropriate. One of the most frequently used methods of supporting change by education personnel is the inservice training workshop. In many situations, the inservice workshop is a cost-efficient way of reaching large numbers of personnel in a single effort and of providing assistance in skill's development to these personnel. Implementing Title IX and Attaining Sex Equity: A Workshop Package has been designed to support the implementation of such a workshop.

The Development of the Workshop Package

Implementing Title IX and Attaining Sex Equity: A Workshop Package was developed by the Resource Center on Sex Roles in Education for the Council of Chief State School Officers' Title IX Equity Workshops Project during 1977 and 1978. The Title IX Equity Workshops Project was funded

under an 18-month contract for "National Regional Dissemination Workshops and Development of Technical Assistance Materials for Title IX of the 1972 Education Amendments" by the U. S. Office of Education, Department of Health, Education, and Welfare, under funds authorized by the Women's Educational Equity Act.

The purpose of the project was to develop and field test a training package which could assist education personnel and interested citizens to gain:

- an understanding of the manifestations and the effects of sex discrimination and sex bias in education
- an understanding of the requirements of Title IX and its implementing regulation, and of the steps required to achieve compliance
- skills and capability for the development and implementation of policies, programs, and management systems to ensure educational equity

The terms of the contract required that the package developed must be suitable for:

- use with groups representing all levels of education from elementary through postsecondary
- use at the local, state, regional, and national levels
- use without extensive reliance on consultative assistance or on materials outside the package itself

In order to address these requirements, it was decided that the training package must be developed according to the following considerations:

- Because of the differing needs, experiences, and frames of reference of elementary-secondary educators and postsecondary educators, "the" training package would need to be two training packages--one for elementary-secondary educators and one for postsecondary educators.
- Because the training package needed to be suitable for use with a wide variety of groups, it would need to include a wide variety of information and activities ranging from "awareness level" to more advanced skills-development and action-planning levels.
- Because the training package needed to be suitable for use by personnel without extensive background in training or consultation and materials resources, it would need to provide specific step-by-step instructions for the implementation of training as well as all materials which would be required for the implementation of training.

All of these considerations are reflected in the form and content of the Workshop Package as it is now published.

Initial plans and specifications for the Package were reviewed by more than 90 leaders in education in March 1977. These leaders were asked to evaluate the plans and suggest modifications in light of:

- their assessment of the training and technical assistance needs of education institutions and agencies related to the attainment of Title IX compliance and sex equity
- their evaluation of strategies available for meeting identified training and technical assistance needs
- their knowledge of resources which would facilitate the development and dissemination of the Workshop Package

Working drafts of the Package materials were field tested and evaluated in 19 workshops implemented by subcontractors in the various HEW regions. Eleven workshops for elementary-secondary educators and eight workshops for postsecondary educators were implemented from September 1977 through January 1978. During the field test workshops, the Package was evaluated by workshop facilitators, workshop participants, and on-site evaluators. Final copy of the Workshop Package was completed after analysis of all of the evaluations obtained during the field test workshops.

An Overview of the Workshop Package

Both the Workshop Package for Elementary-Secondary Educators and the Workshop Package for Postsecondary Educators provide training session outlines and participant's materials for a fifteen-hour workshop sequence on Title IX and sex equity in education. Each package is organized according to five three-hour workshop sessions. Three of these sessions are termed "Generic Sessions"; they are designed to provide general information and experiences which are relevant to all participants attending the workshop. The other two sessions, called "Application Sessions," are designed to provide specialized information and experiences to persons of different professional roles and to enable participants to apply workshop experiences to their individual professional responsibilities. Each of the components of the Workshop Package corresponds to one three-hour workshop session; a component includes both a detailed step-by-step session outline for facilitators and the materials designed for participant use during the workshop sessions.

The sequence (and titles) of the workshop sessions for elementary-secondary educators is outlined below; there is a written component in the Workshop Package for Elementary-Secondary Educators which corresponds to (and bears the same title as) each of these workshop sessions.

Generic Session One: "The Context of Title IX"

Generic Session Two: "The Title IX Regulation and Grievance Process"

Application Sessions A and B: Two sequential application sessions focus on the responsibilities and roles of six different groups with regard to Title IX compliance and the attainment of sex equity in education. Application sessions focus on the following roles and responsibilities:

- The Administrator's Role

Session A - "Ensuring Procedural Title IX Compliance:
Establishing a Foundation for Sex Equity"

Session B - "Monitoring Title IX Implementation"

- The Teacher's Role

Session A - "Identifying and Overcoming Sex Bias in Classroom
Management"

Session B - "Identifying and Overcoming Bias in Instructional
Materials"

- The Counselor's Role

Session A - "Identifying and Overcoming Bias in Counseling
and Counseling Programs"

Session B - "Identifying and Overcoming Bias in Counseling
Materials"

- The Vocational Educator's Role

Session A - "Overcoming Sex Discrimination and Attaining
Sex Equity in Vocational Education: The Social/
Educational and Legal Context"

Session B - "Overcoming Sex Discrimination and Attaining
Sex Equity in Vocational Education: Recognizing
and Combating Sex Bias and Planning for Action"

- The Physical Activity Specialist's Role

Session A - "Achieving Sex Equity in Physical Education and
Athletics: Legal Requirements and the Need for
Change"

Session B - "Achieving Sex Equity in Physical Education and
Athletics: Analyzing and Planning for Action"

- The Community's Role

Session A - "Building a Knowledge Base for Change"

Session B - "Building Skills for Change"

Generic Session Three: "Planning for Change"

The objectives for Generic Session One include:

- to provide participants with an opportunity to assess their awareness of differential treatment of males and females in their schools and the impact of Title IX

- to provide participants with a review of the legal context of Title IX, an overview of Federal antidiscrimination laws, and the opportunity to assess their skills in identifying discrimination in schools
- to provide participants with an understanding of differential sex-role socialization as it is manifested in schools
- to encourage participants to identify goals for nonsexist education

The objectives for Generic Session Two include:

- to review with participants the requirements of the regulation to implement Title IX of the Education Amendments of 1972
- to provide participants an opportunity to assess their own understandings of Title IX requirements by sharing questions and answers with others
- to provide participants with an understanding of the significance of Title IX grievance procedures as a method for resolving complaints of sex discrimination and for monitoring Title IX compliance
- to provide participants with information regarding the structural components or characteristics of an effective grievance procedure and an opportunity to evaluate the structure of several sample grievance procedures
- to increase participants' understanding of and skills related to their own potential responsibilities for grievance problem solving
- to provide participants an opportunity to increase their skills in identifying Title IX violations and in formulating corrective or remedial actions appropriate to these violations through the analysis of sample Title IX grievances

The objectives for Generic Session Three include:

- to provide participants with an overview of some of the necessary conditions for change related to Title IX and sex equity in education and of the types of strategies available for planning and implementing change efforts in these areas
- to provide participants with a framework for diagnosing organizational change needs related to Title IX and sex equity and for designing action strategies which would be appropriate for meeting these needs
- to provide participants with an opportunity to develop preliminary plans for organizational change which could contribute to the full implementation of Title IX and achieving sex equity in their districts
- to increase participants' skills in developing action programs related to Title IX and sex equity for implementation in their own job functioning

Although the specific objectives of the Application Sessions vary according to the group for which the session is designed, all Application Sessions are generally designed to provide participants with the opportunity to:

- identify the implications of Title IX for their own job functions
- increase their skills for identifying and alleviating sex discrimination and for providing sex equity in their own job functions
- consider actions which can be taken in their own job functions to ensure Title IX compliance and increase sex equity in their education agencies and institutions

Although the content of the Package for Postsecondary Educators has been designed to address the unique needs of personnel of postsecondary education institutions, its organization and sequence parallel those of the Package for Elementary-Secondary Educators. The three Generic Sessions, although different in content, are the same in title and objectives as those for elementary-secondary educators. Application Sessions for postsecondary educators include: The Administrator's Role, The Counselor's Role, and The Teacher Educator's Role. (Application Sessions for faculty, for student services personnel, and for physical activity personnel have been developed in draft form and may be published in the future.)

Materials which supplement the basic components of the Workshop Package are also available. Two Participant's Notebooks, one for elementary-secondary educators and one for postsecondary educators, have been developed. These Notebooks contain all the worksheets used by participants during the three Generic Sessions; they also include substantial reference material which highlights or expands the content presented in these sessions, and an annotated listing of resources relating to Title IX and the achievement of sex equity in education. (Although the Generic Sessions may be implemented using only the participant's materials included with the session outlines, the reference material and resource listing included in the Participant's Notebooks make the use of these notebooks desirable wherever possible.)

A Final Context for the Workshop Package

Three major assumptions underlie the total Workshop Package, assumptions which should be kept in mind during its use:

- Title IX is one part of a total educational equity movement.

Title IX is an evolutionary step in our nation's efforts to provide equity for all citizens. Our experience with years of attempting to eliminate race discrimination and bias in education provided the foundation for our understandings of sex discrimination and for the strategies and technology which may be used in its elimination.

Anyone working to attain educational equity must remember the multiple ways that equity may be denied--on the basis of race; national origin; religion; cultural identity; sex; mental, emotional, or physical handicap; and social class--and work to ensure that the needs of all students are provided for.

- Our nation's concern for educational equity is a reflection of changes in our society; the achievement of educational equity is a crucial step in ensuring the survival of a viable society.

Our nation's concern for human and civil rights of various groups is rooted in the evolution of our society as it is affected by widespread social, economic, and technological change. Schools have the responsibility for preparing all students to participate in and to deal with these changes. Failure to achieve educational equity limits the potential attainments of our future society. Educational equity is not just a moral goal; it is a survival goal.

- The movement for educational equity is an important vehicle for educational reform.

Educators can be proud of the many accomplishments of our educational system. Despite these accomplishments, however, the changing nature of our society demands that we move on to greater achievement. Efforts to attain educational equity can contribute to implementation of many of the basic educational reforms which are needed. The greater individualization of instruction, the preparation of students for a variety of life roles, and the involvement of students in learning how to learn--these reforms are possible within the context of educational equity.

It is hoped that the Workshop Package and materials will assist its users in actualizing these assumptions and providing greater equity and higher quality education for all students.

HOW TO USE THESE MATERIALS

The following materials are one component of the multicomponent workshop package Implementing Title IX and Attaining Sex Equity. They provide resources and a step-by-step guide for implementing one three-hour workshop session, which is one session within the fifteen-hour workshop sequence outlined in the total Workshop Package.

The material in this session outline may be used in several ways:

- as the design and supporting material for a three-hour session which is presented as part of a 15-hour (two and one-half day) workshop on Implementing Title IX and Attaining Sex Equity
- as the design and supporting material for one of a series of five three-hour sessions utilizing the Workshop Package as a basis for a sequence of periodic seminars on Title IX and sex equity for education and/or community personnel
- as stimulus material for the adaptation and design of other activities or materials which can assist education personnel in achieving sex equity (e.g., information packets, self-instructional materials, etc.)
- as resources for teacher education programs
- as resources for training-of-trainers programs

Implementing Title IX and Attaining Sex Equity: A Workshop Package has been developed to facilitate its implementation by personnel with limited experience in workshop implementation and/or the subject matter which is relevant to consideration of sex equity. It is beyond the scope of this publication, however, to provide the background information on workshop design, implementation, and evaluation which would otherwise be desirable. Education personnel reviewing the package or considering use of any package component may nonetheless find it useful to review the following questions which should be considered with regard to use of this or any other training design.

1. Is the workshop session design appropriate for the purposes of groups for which it may be implemented?

The Workshop Package has been developed to address the needs of education personnel with a diversity of experience and familiarity with regard to Title IX and sex equity. The workshop package sequence begins with a consideration of the need and rationale for Title IX; it moves through a detailed review of the Title IX regulation and the Title IX grievance process; it proceeds to an examination of the application of the Title IX regulation and sex equity principles to the particular day-to-day job functions of various groups of education personnel; and it concludes with an overview of the change process and an opportunity for participant action planning related to Title IX compliance and the achievement of sex equity.

Workshop planners and training personnel should carefully review both the general objectives of each workshop session and the purposes of specific session activities (both are listed in the session outlines) in order to ensure their relevance and appropriateness to the particular needs of their intended workshop target group.

Similarly, workshop planners should also review the training methodology suggested in the outline for its suitability for situational needs. The processes or methods used in conducting any workshop should be selected for:

- their appropriateness to workshop objectives
- their appropriateness to the styles and skills of available workshop facilitators
- their provision of sufficient diversity to accommodate different participant learning styles

Because the objectives of the workshop package emphasize the delivery of cognitive information, it relies heavily on the use of lecturette and question-answer processes. The skills required of workshop session facilitators for the presentation of these activities are also less specialized than those which are required for the presentation of more affectively oriented activities.

All session outlines also involve the use of personal inventory and skills testing or skills practice activities performed by participants individually, as well as small group discussions and action-planning activities. These are included in order to:

- provide participants an opportunity to practice relevant skills and to receive immediate feedback
- provide participants an opportunity to share reactions and to develop small support groups
- accommodate the needs of participants for experiential learning activities
- increase the informality and variety of workshop activities

These procedures or methods suggested in the training design may be adapted to reflect a different emphasis in objectives or to reflect the different styles or skills of workshop session personnel. In considering the procedures or methods used in any workshop, it is useful to evaluate whether:

- A) they provide a mixture of affective, cognitive, and experiential activities sufficient to accommodate the diversity of participants learning styles
- B) they follow a logical progression from awareness building, to problem exploration, to skills assessment or development, through stimulation of the application of workshop information by participants in their relevant personal or professional activities

2. How much flexibility is desirable in implementing a session outline?

The session outline is intended as a guideline for the implementation of a training experience, not as a prescription that must be followed without deviation. The activities and sequence outlined in this session have been field-tested successfully with a variety of groups, but it should be recognized that no single design is appropriate for all situations. Facilitators should use the outline to assist them in meeting the needs of participants rather than as a constraint to necessary flexibility.

Flexibility is critical with regard to observance of the suggested timelines which have been provided in the session outline. These timelines tend to be highly concentrated. It will require most facilitators and groups to move at a brisk pace if all of the activities are to be completed in the time allowed. (Most of the sessions could benefit from an expansion of time allocated to each activity.) The timelines are general suggestions only; some groups of participants may need to spend more time on a single activity than is indicated in the outline and may be able to omit another activity, while others may find it impossible to move through the entire sequence of activities in the time available. The facilitator(s) must be sufficiently familiar with the training design and activities to determine the modifications which may be appropriate to a particular situation or group.

The primary guideline which should be observed in the implementation of the training activities is that care should be taken to meet the needs of the majority of the participant group. Facilitators should avoid modifications which may address the needs of only a few participants and attempt to meet the needs of individuals during break periods or after the workshop without detaining the entire group.

3. How can the workshop activities and sequence be adapted to fit shorter periods of time?

Although the session outlines were designed for implementation in three-hour periods, it is recognized that it may be necessary to modify the session for implementation in a shorter period of time. When this is necessary, the facilitator(s) should review the objectives of each suggested activity carefully before making a decision about which activities would be most appropriate. If this modification is necessary the facilitator(s) should consider the following:

A) Carefully review the sequence and the build-up activities provided in the session outline. Each session outline has been developed to include each of the following components:

- Needs assessment activity/exercise--Session outlines begin with an introductory activity which can involve the group in the session, allow individuals to express initial concerns and provide the facilitator with general information about the perceptions and experience of the group. This initial experience is a key method of judging the specific needs of the group and estimating the optimal pacing of the session activities.

- Cognitive activities--Each session outline includes a lecturette(s) to introduce new concepts and activities. These are designed to increase participants' understanding of particular problems related to sex equity and of the steps to be taken and the principles to be followed in achieving sex equity. The amount of information provided in a lecturette can be reduced if the group has had previous exposure to the concepts being presented. Even with experienced groups, however, it is useful to provide a summary of the key points included in the lecturette to ensure that all members of the group have a common frame of reference for subsequent activities.
- Experiential activities--Experiential activities provide an opportunity for participants to apply the concepts presented in cognitive activities to situations in educational practice. The purpose of this activity is to help participants assess for themselves the implications of the information presented for day-to-day activities.
- Skills practice activities--Each session outline includes a number of activities which are designed to give participants an opportunity to practice some of the skills which are necessary for the application of sex equity principles and to obtain immediate feedback regarding their efforts.
- Action-planning activities--Each session outline encourages participants to begin to identify specific steps which they or their education agency can take to promote full implementation of Title IX and/or to attain sex equity in their activities. These action-planning steps are crucial to the application of the information provided in the workshop package. They should not be eliminated and in fact, wherever possible, it would be desirable to expand the amount of time devoted to action planning. This is particularly relevant when participants work together in the same education agency.

In most cases, it is desirable to reduce the amount of time devoted to each of the various types of activities provided rather than to omit any of the major components of the session outline.

- B) Provide participants with reading materials prior to the workshop session.

If the workshop time is limited, it may be possible to reduce the amount of time devoted to the workshop activities by providing participants with materials which can be read prior to the implementation of the workshop. If the facilitator believes that this is desirable, a summary of the information provided in lecturette or information sheet form may be distributed to participants prior to the workshop.

- C) Reduce the amount of time spend on exercises and worksheets.

One way that the timelines for the session can be cut is to ask participants to consider only a limited number of cases or situations

presented in their worksheets, suggesting that others be completed some time after the workshop. (If this is done, the facilitator should make certain to explore those items selected for use in the group in sufficient detail to clarify for participants the basic principles reflected in the worksheet.) In all instances, the facilitator should emphasize ways which the participant materials may be used after the workshop.

4. What personnel are needed for the implementation of the session outline?

Although this session outline has been developed to facilitate its use by personnel of varying backgrounds, the selection of personnel to facilitate workshop activities is a critical factor in the implementation of any session. While the session outline may be implemented by a single facilitator, it is desirable to utilize a team of two or more facilitators. Use of a team has the following advantages:

- it increases the likelihood of ensuring both content expertise (knowledge of Title IX and sex equity principles in education, of the structure of education agencies, or Federal and state nondiscrimination laws, etc.) and process expertise (knowledge of group dynamics and skills in group processing and training) in the delivery of the session outline
- it makes it possible to demonstrate nondiscrimination by use of a training team on which both females and males and members of racial and ethnic minority groups are represented
- it makes it possible to increase the diversity of training styles and areas of expertise, and thus to accommodate the diverse learning styles and needs of workshop participants

If a facilitator team is utilized, it is important to designate one or two persons with responsibility for providing continuity and direction throughout all workshop activities. Persons with responsibility for workshop administration and for such tasks as participant registration, distribution of materials, and general problem solving should also be designated, particularly when the workshop involves a large number of people.

5. How should facilitators prepare for the implementation of the workshop session?

Effective implementation of the training session requires careful facilitator preparation. Facilitators should take ample time to do the following:

- thoroughly review the session outline and all participant materials
- prepare notecards outlining the sequence and the general directions for participants
- prepare their own outlines of the suggested lecturettes so that they may present the information provided in their own style (in no case should a facilitator read from the session outline during session implementation)

- identify points where information or activities could be omitted in the event that more time is needed in an earlier activity

If a team of facilitators is used, it is essential that the group meet together to:

- assign various responsibilities to the team members, making sure that each individual is clear about her/his role in appearing before the group, monitoring individual and small group work, preparing charts or materials, and working with other team members
- designate one person as the person responsible for providing continuity throughout the workshop and making decisions as to necessary adaptation of timelines
- discuss individual reactions to activities and ways that adaptations might be made if necessary
- consider the various styles represented in members of the team and the ways that the team might work together for maximum effectiveness

6. How should participants be involved in the workshop initially?

Considerations regarding the involvement of participants in the workshop event usually revolve around two issues: whether workshop participation should be voluntary or mandatory, and to what extent participants should be involved in the workshop planning process.

Determination of whether workshop participation should be voluntary or mandatory should be made in consideration of the workshop objectives, the job requirements of various staff groups, and other situational variables which may be relevant. The training design may be appropriately used whether participation is voluntary or mandatory. It is important to remember, however, that whether participants are notified of the obligation to attend or invited to participate, a clear and positive statement of workshop sponsorship, workshop purposes and objectives, and the time and location of the workshop can do much to establish a positive climate for the workshop and to alleviate uncertainties or anxieties experienced by participants. It is also important that participants are notified or invited in sufficient time to allow for personal planning or scheduling and for clarification of any questions regarding participation. It may also be useful to provide short preparatory reading material which can raise interest in or establish an initial context for the workshop.

Another method of establishing a positive workshop climate is to involve participants (or representatives of the workshop target groups) in workshop planning activities. This might be done through simple written or oral needs assessments which serve both to provide information about the felt needs of participants and to introduce participants to basic workshop issues. It might also be accomplished by simply keeping key participants informed of various stages of planning or decisionmaking, or by requesting the assistance of selected participants in obtaining workshop facilities, reproducing resource materials, introducing resource persons, etc.

The training design specifies no procedures for participant involvement prior to workshop implementation; workshop personnel should select procedures which are appropriate to the size, structure, and climate of their particular agencies or institutions.

7. What participant materials are needed to implement the session?

All materials which are required for participant use during a workshop session are attached to the session outline; these may be reproduced for distribution to session participants. Although the participant materials for each session are fairly extensive (and thus require some financial expenditure to reproduce in quantity), they are important to the successful implementation of the session because:

- they provide quick reference information for participants with little prior background
- they support and highlight the information provided by facilitators and allow participants to be actively involved in the training process
- they permit individual problem assessment and skills testing by participants related to session concerns
- they reinforce participants' workshop session experiences and provide participants a document for continuing on-the-job reference or use

(It should be noted that although all required participant materials are attached to the corresponding session outlines, a more comprehensive Participant Notebook has been developed and published as one component of the Workshop Package. This notebook includes not only all worksheets used during the three Generic Sessions, but also additional reference material and an extensive annotated listing of resources related to Title IX and sex equity. Ideally, each participant should receive a copy of this full Participant's Notebook and a copy of all worksheets for the Application Sessions which are appropriate to their role--e.g., administrator, counselor, etc.

8. What facilities, equipment, and resources are needed for implementation of the workshop?

The physical facilities provided for a workshop can make a significant difference in the difficulty or ease of its implementation. The workshop package requires a room sufficiently large to accommodate all participants for the generic sessions and small break-out rooms for each of the application group sessions provided. Moveable tables and chairs facilitate the creation of an informal environment and the implementation of small group activity. Attention should be given to ensuring that facilities are well lighted, at a comfortable temperature and well ventilated, and within access of rest-rooms. It is desirable to inspect facilities well in advance of the workshop to ensure that they will meet the needs of the workshop.

The equipment to be utilized in the session is specified in the training outline. Care should be taken to make arrangements well in advance of the workshops for the use of equipment to check just prior to the session to ensure that the equipment is available and in working order.

9. What guidelines should be observed by facilitators throughout the workshop?

Workshops dealing with sex equity often involve participants in a questioning of some of their earliest learnings and most basic beliefs and assumptions. Individuals dealing with these issues may have negative feelings about changing roles of males and females in our society and experience fear or anger about sex equity efforts in education. It is critical that workshop facilitators understand that these reactions are to be expected and how to handle them in positive ways. Some suggestions for dealing with possible resistance or rejection of the ideas covered in the workshop are outlined below.

Workshop facilitators should:

- Remember that change in knowledge, attitudes, and skills requires time and continued support. Each person must move through a process of exploring, understanding, and acting on new ideas before they can be accepted. Rejection of ideas presented in the workshop should not be interpreted as a personal rejection of the presenter.
- Work to provide continuing support to participants even when they are met by disagreement and/or resistance. Responses to be avoided by workshop personnel include:
 - Defensiveness--the expression through words or behaviors that a facilitator or resource person feels as if an attack has been made against her/his personal ability or adequacy. Workshop personnel should try to maintain an open attitude and deal with the ideas presented by the participant rather than the internal feelings that these ideas may create.
 - Rejection of the group--the categorization of an individual or group as "hopeless." One of the ways that facilitators may deal with persons who disagree is to reject them. It is important that workshop leaders maintain communications with all participants and continue to work through the feelings and ideas presented.
 - Future predictions--statements to an individual or the group such as "I'm sure you'll eventually see it my way." Although it is quite likely that many who reject ideas presented in workshops will change over a period of time, it is not helpful to dismiss the issues being considered by making future predictions.
 - Avoidance of the issues--dropping relevant controversial issues before they have been considered. Avoiding open consideration of possible implications of the Title IX regulation through a comment such as "There's really no need for major changes in most programs" does not contribute to participant learning or problem solving. Workshop facilitators should anticipate some of the controversial questions or concerns which are likely to be raised and be prepared to deal with them, if only by admitting uncertainty and a willingness to help participants obtain assistance from other sources.

- Overcontrol of the participant group--pressing the group ahead regardless of their present needs or ability to deal with some of the issues. Overscheduling a workshop agenda so that time is not available for clarification questions or for consideration of the implications of the information in small group discussion is one way to overcontrol the participant group. Workshop plans must include time to ensure that participants have the opportunity for initial exploration and evaluation of the information presented.
- Work to maintain a climate where participants' questions, feelings, and opinions can be expressed and considered. Maintain a nonjudgmental approach toward the expression of feelings or opinions which differ from those being expressed in the workshop.
- Provide participants with concrete information and materials whenever possible. Much of the resistance to accepting change occurs when people do not understand the rationale for change and the specific steps that must be taken in implementing change. It is essential that participants be given opportunity to identify specific directions for change, to develop the necessary skills for change, and to receive support and assistance during this process.

THE TITLE IX REGULATION AND GRIEVANCE PROCESS

Outline for Generic Session Two

Prepared for the
Title IX Equity Workshops Project
of the Council of Chief State School Officers

by the
Resource Center on Sex Roles in Education
National Foundation for the Improvement of Education

TITLE IX--THE REGULATION AND THE GRIEVANCE PROCESS

GENERIC SESSION TWO

Session Specifications

Session population: Local education agency staff, including administrators, Title IX coordinators, instructional staff, counselors and student personnel workers, vocational education personnel, and physical education and athletics staff; board members; and representatives of community groups

Session objectives: The objectives for Generic Session Two include:

- to review for participants the requirements of the regulation to implement Title IX of the Education Amendments of 1972
- to provide participants an opportunity to assess their own understandings of Title IX requirements by sharing questions and answers with others
- to provide participants with an understanding of the significance of Title IX grievance procedures as a method for resolving complaints of sex discrimination and for monitoring Title IX compliance
- to provide participants with information regarding the structural components or characteristics of an effective grievance procedure and an opportunity to evaluate the structure of several sample grievance procedures
- to increase participants' understanding of and skills related to their own potential responsibilities for grievance problem solving
- to provide participants an opportunity to increase their skills in identifying Title IX violations and in formulating corrective or remedial actions appropriate to these violations through the analysis of sample Title IX grievances

Time required: Three hours

Materials needed:

For participant use:

- "Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation" (included in participant's notebook--Participant Worksheet 3A)
- "Sample Title IX Grievance Procedures A and B" (included in participant's notebook--Participant Worksheets 4 and 5)
- "Checklist for Evaluating the Content of a Grievance Procedure" (included in participant's notebook--Participant Worksheets 6 and 7)

- "Sample Title IX Grievances" (included in participant's notebook--Participant Worksheets 8-16)
- "Sample Title IX Grievance Procedures A and B--Analyses" (included in participant's notebook--Appendix B)
- "Sample Title IX Grievances--Analyses" (included in participant's notebook--Appendix C)

For facilitator use:

- Charts on newsprint, acetate transparency, or chalkboard:
 - "Components of a Grievance Procedure" (see section IV of this outline)
 - Definitions: corrective action and remedial measure (see section V of this outline)

Facilitators required: Although the session may be conducted by a single person, it is preferable in most cases to share responsibilities among several persons (female and male) who possess both subject matter expertise and group process skills, and who represent racial-ethnic diversity

Facilitator preparation required:

The facilitator(s) should:

- thoroughly review this outline and all participant materials
- thoroughly review the following supportive materials:

Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation by the Resource Center on Sex Roles in Education

* Complying With Title IX: The First Twelve Months by Shirley McCune and Martha Matthews (GPO stock No. 017-080-01669-9)

* Complying With Title IX: Implementing Institutional Self-Evaluation by Martha Matthews and Shirley McCune; those sheets in each section headed "Self-Evaluation: An Outline" (GPO stock No. 017-080-01672-9)

* Title IX Grievance Procedures: An Introductory Manual by Martha Matthews and Shirley McCune, particularly pages 13-48 (GPO stock No. 017-080-01711-3)

* Copies may purchased from the Resource Center on Sex Roles in Education or the Government Printing Office, Washington, D.C. 20402.

- review suggested lecturettes and adapt them to accommodate unique group needs or facilitator(s) style

- "Introductory Comments" (see section I of this outline) (5 minutes)
- "A Summary of the Title IX Regulation" (see section II of this outline) (20 minutes)
- "The Function and Structure of Title IX Grievance Procedures" (see section III of this outline) (20 minutes)
- "Implementing Title IX Grievance Procedures" (see section V of this outline) (5 minutes)
- "Summary of Generic Sessions and Preview of the Application Sessions" (see section VI of this outline) (5 minutes)

- prepare charts (on newsprint, acetate transparency, or chalkboard) as identified in "Materials needed" listing of these Sessions Specifications

Group size: Flexible

Facilities required: Meeting room to accommodate expected number of participants; movable tables and chairs will facilitate small group work

Equipment and supplies required: Overhead projector and transparencies, chalkboard and chalk, or newsprint and marker; pencils for each participant

TITLE IX--THE REGULATION AND THE GRIEVANCE PROCESS

GENERIC SESSION TWO

Session Agenda

- | | | |
|------|---|----------------------------------|
| I. | INTRODUCTORY COMMENTS | TIME REQUIRED: 5 MINUTES |
| II. | TITLE IX: THE REQUIREMENTS OF THE IMPLEMENTING REGULATION | TIME REQUIRED: 50 MINUTES |
| | A. Lecturette--"A Summary of the Title IX Regulation" | (20 minutes) |
| | B. Individual activity and small group discussions--"Title IX Questions and Answers" | (20 minutes) |
| | C. Total group processing | (10 minutes) |
| III. | BREAK | TIME REQUIRED: 15 MINUTES |
| IV. | THE TITLE IX GRIEVANCE PROCESS: EXAMINING TITLE IX GRIEVANCE PROCEDURES | TIME REQUIRED: 55 MINUTES |
| | A. Lecturette--"The Function and Structure of Title IX Grievance Procedures" | (20 minutes) |
| | B. Questions and answers | (5 minutes) |
| | C. Small group discussions--"Evaluating Sample Title IX Grievance Procedures" | (20 minutes) |
| | D. Total group processing | (10 minutes) |
| V. | THE TITLE IX GRIEVANCE PROCESS: IMPLEMENTING TITLE IX GRIEVANCE PROCEDURES | TIME REQUIRED: 50 MINUTES |
| | A. Lecturette--"Implementing Title IX Grievance Procedures" | (5 minutes) |
| | B. Individual activity and small group discussions--"Evaluating Sample Title IX Grievances" | (35 minutes) |
| | C. Total group processing | (10 minutes) |
| VI. | SUMMARY OF GENERIC SESSIONS AND PREVIEW OF THE APPLICATION SESSIONS | <u>TIME REQUIRED: 5 MINUTES</u> |
| | | TOTAL TIME REQUIRED: 180 MINUTES |

I. INTRODUCTORY COMMENTS

TIME REQUIRED: 5 MINUTES

Purposes of the activity:

The purposes of this activity are:

- to introduce any facilitator(s) who may be new to participants
- to provide participants with an overview of the content and activities of this second generic session

Materials needed: None

Facilitator preparation required:

The facilitator should:

- thoroughly review the session outline and all participant materials
- review suggested introductory comments and adapt them to accommodate unique group needs or facilitator style

Procedure:

The facilitator and any persons assisting with this session should be introduced if they have not been before the group before. Any housekeeping information relevant to this session may also be discussed at this time.

The facilitator should then introduce this Generic Session Two with comments such as the following:

"Up to this point in the workshop, we have been exploring the context for Title IX, rather than the Title IX requirements themselves. We have considered:

- *the legal context for Title IX--the relationship of Title IX to other antidiscrimination laws affecting education institutions, and the need for maintenance of efforts to implement all of these laws*
- *the social/educational context for Title IX--the sources of sex differentiation in education and their possible outcomes for females and males, and the goals for equity in education and possible characteristics of such equity*

"With this background, we will be spending the next several hours in the workshop exploring Title IX requirements in some detail. We will:

- review the provisions of the Title IX regulation
- share our questions and answers regarding Title IX regulatory requirements in small discussion groups
- review the Title IX requirement for implementation of a grievance procedure and consider some of the components which are usually included in a grievance procedure
- evaluate several sample grievance procedures
- assess our ability to apply our knowledge of Title IX requirements to the resolution of sample Title IX grievances

In short, we will be working during this session to increase our knowledge of Title IX requirements and our ability to interpret them in a variety of situations. This familiarity with the Title IX regulatory requirements will enable us to work more effectively during the next two workshop sessions, when we will work in subgroups on the implications of Title IX for achieving sex equity in education through our individual professional roles within the education system.

"This session is likely to be a particularly busy one--we'll be moving through a variety of information and activities very fast. We hope that you won't feel pressured to complete all activities in equal detail in the times allowed. Instead, we hope that you will work to identify major points and issues during this session, to obtain answers to those questions which are most important to you, and to identify sections in your worksheets on which you may want to spend more time outside this session. Remember that there is a wide range of knowledge and experience related to Title IX represented by participants and that all of you will vary in the amount of time you need or want to spend on various issues or activities.

"We will begin this session with a review of the Title IX regulation. For some of you, this may be familiar information. If so, you may wish to check your understandings with the explanations provided in the review. You might also wish to think back on the goals and characteristics of equity in education identified in the last activity and to assess their relation to the Title IX regulation. For others of you, some of the information presented may be new. If you have questions, please hold them and make note of them for use during the activity after the review."

II. TITLE IX: THE REQUIREMENTS OF THE IMPLEMENTING REGULATION

TIME REQUIRED: 50 MINUTES

- | | |
|---|--------------|
| (A) Lecturette--"A Summary of the Title IX Regulation" | (20 minutes) |
| (B) Individual activity and small group discussions--"Title IX Questions and Answers" | (20 minutes) |
| (C) Total group processing | (10 minutes) |

Purpose of the activity:

The purposes of this activity are:

- to review with participants the specific requirements of the regulation to implement Title IX of the Education Amendments of 1972 and related clarifying memoranda and amendments:
 - the procedural requirements for compliance
 - the admissions requirements
 - the requirements regarding the treatment of students
 - the employment requirements
- to provide participants with the opportunity to assess their own understandings of Title IX requirements by sharing questions and answers with other participants

Materials needed:

For participant use:

- "Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation" (included in participant's notebook -- Participant Worksheet 3A)

For Facilitator use: None

Facilitator preparation required:

The facilitator(s) should:

- thoroughly review this outline and all participant materials
- thoroughly review the following supportive materials:

Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation by the Resource Center on Sex Roles in Education

* Complying With Title IX: The First Twelve Months by Shirley McCune and Martha Matthews (GPO stock No. 017-080-01669-9)

* Complying With Title IX: Implementing Institutional Self-Evaluation by Martha Matthews and Shirley McCune, those sheets in each section which are headed "Self-Evaluation: An Outline" (GPO stock No. 017-080-01672-9)

- review the suggested lecturette and adapt it to accommodate unique group needs or facilitator style

Procedure:

A. Lecturette--"A Summary of the Title IX Regulation" (20 minutes)

The purpose of this lecturette is to review for participants the requirements of the Title IX regulation and related memoranda, amendments, and case law. Although many participants may have heard such reviews before, some may not have, and others may have developed misconceptions based on past information. It is important for these reasons that all participants be exposed to this review in order to establish a common understanding and frame of reference for the activities to follow in the rest of the workshop.

A suggested lecturette is provided below. It is tied closely to the actual provisions of the regulation, but facilitators are encouraged to provide interpretive information or concrete examples which are relevant to the experience of the participants.

Suggested lecturette:

"Title IX was enacted in 1972, after much Congressional testimony which cited data similar to those we have just reviewed. The regulation to implement Title IX was issued in 1975, after still more testimony documenting the nature of sex bias and discrimination in education policies, practices, and programs. The regulation to implement Title IX is very specific in many of its provisions; this specificity reflects both the availability of data documenting sex bias and the years of experience gained by HEW's Office for Civil Rights (the office responsible for the regulation and for Federal enforcement of Title IX) in the implementation and enforcement of other Federal antidiscrimination requirements.

"Title IX states that:

'No person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.'

*Copies may be purchased from the Resource Center on Sex Roles in Education or the Government Printing Office, Washington, D.C. 20402.

"The provisions of its implementing regulation are organized into four major sections:

1. A procedural section which specifies general definitions and five basic compliance procedures required of all education agencies and institutions receiving Federal funds. These requirements are an important feature of the Title IX regulation.
2. An admissions section which delineates discriminatory policies and practices which are prohibited in the admission of students to specified educational programs. This section applies to schools of vocational education and to most postsecondary education institutions.
3. A treatment of students section which outlines requirements for nondiscrimination in students' access to courses, student policies, counseling and guidance practices, physical education and competitive sports, facilities, financial aid, extracurricular activities, etc.
4. An employment section which specifies prohibited forms of discrimination in the employment policies and practices of education institutions and agencies receiving Federal funds.

"In Participant Worksheet 3A you will find a copy of 'Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation.' We are going to review briefly those major provisions of the regulation which are of most relevance to local education agencies; you may find it useful to follow along in the 'Summary,' which provides more detailed information.

"First, we are going to examine the requirements of the procedural section of the regulation.

Procedural Provisions:

There were five procedural steps which were to have been implemented by July 21, 1976.

1. Notification of policy of Title IX compliance and nondiscrimination on the basis of sex

Each institution or agency covered by the Title IX regulation is required to develop a policy statement of Title IX compliance and nondiscrimination on the basis of sex and to make notification of such policy to employees, students, parents of elementary and secondary students, sources of referral of applicants for employment, labor organizations, and organizations holding contracts for services. Initial notification was required by October 1975, but notification is an ongoing responsibility. This policy statement should appear in such official documents as course announcements, job announcements, student handbooks, requests for referral of applicants, etc.

2. Designation of employee responsible for coordination of compliance efforts

Each education institution or agency is required to designate an employee with responsibility for coordinating its Title IX compliance efforts. Ultimate accountability for agency/institutional compliance with Title IX rests with the chief administrative officer, but the regulation requires the designation of an employee with specific responsibilities for coordination of efforts toward implementation of the regulation. In many instances, it is advisable that two persons be designated to coordinate two areas of activity--one person with responsibilities for compliance with the employment requirements and one person with responsibilities for compliance with the student treatment portion of the regulation.

3. Development of a grievance procedure for the handling of discrimination complaints

Each recipient of Federal funds must develop an internal grievance procedure for the handling of complaints of discrimination. This requirement covers only those complaints related to possible noncompliance with Title IX, but in many cases it is advisable to develop or extend such a procedure for the handling of complaints of race discrimination since this is also prohibited by Federal laws.

There is little specification of requirements for the grievance procedure beyond the requirement that it provide for prompt and equitable resolution of complaints.

It must be pointed out that the existence of an internal grievance procedure does not limit the possibility of the direct filing of complaints with the Office for Civil Rights without use of the internal procedure or before, during, or after use of the internal procedure.

4. Completion of an institutional self-evaluation

Institutional self-evaluation is basically a required self-assessment directed at the identification and correction of overt and covert forms of sex discrimination which violate Title IX requirements. The institutional self-evaluation process consists of three basic parts:

- assessment and evaluation of present policies and practices for compliance with Title IX requirements
- modification of policies and practices found to be discriminatory

- development of remedial steps to be taken to eliminate possible effects of past discrimination

This process was to have been completed by July 21, 1976. A description of all modifications and remedial steps taken must be kept on file for a three-year period.

5. Submission of a compliance assurance form to the Office for Civil Rights

All education agencies and institutions receiving Federal funds are required to submit assurances of Title IX compliance to the Office for Civil Rights as a condition of eligibility for Federal funds. Form 639 was developed for this purpose, and copies were mailed to all recipients. The initial deadline for submission of the form was September 30, 1976; all education agencies whose Form 639 (or the revised Form 639A) is not on file with OCR face possible termination of Federal aid.

Admissions Provisions

The second section of the regulation is the admissions section. It applies only to institutions of vocational education and to specified postsecondary institutions. No student may, on the basis of sex, be denied admission or be subjected to discrimination in admission by any institution of vocational education or by any specified postsecondary institution. Because the majority of elementary-secondary institutions are not covered by this section of the regulation, it will not be discussed farther here. Specific prohibitions are listed in your 'Summary.'

Treatment of Students Provisions:

The treatment of students provisions of the regulation cover nearly every aspect of student treatment and student programs. In general, the regulation requires that:

'No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or any other education program or activity operated by a recipient.'

It specifically provides that education institutions or agencies may not, on the basis of sex:

- provide different aid, benefits, or services;
- deny any such aid, benefits, or services;

- subject any person to separate or different rules of behavior, sanctions, or other treatment;
- discriminate against any person in the application of any rules of appearance;
- provide significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefits, or services to students or employees;
- limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

These prohibitions are quite broad; it is possible that the courts may, in the future, interpret them in such a way as to extend the detailed prohibitions against differential treatment which are currently contained within this section of the regulation.

"These detailed prohibitions cover discrimination in student use of facilities, access to course offerings, counseling and counseling materials, financial assistance, health and insurance benefits or services, athletics, and treatment based on marital or parental status.

"Examples of some of the provisions of this section of the regulation include the following:

Course offerings. Course offerings or other education activities may not be provided separately on the basis of sex, nor may participation in course offerings and activities be refused or required on such basis. Included are health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

- With respect to physical education courses, institutions are required to develop coeducational programs as soon as possible but in no event later than July 21, 1976 at the elementary school level, and July 21, 1978 at the secondary and post-secondary levels.
- Students may be grouped by ability in physical education classes as long as ability is assessed by objective standards developed and applied without regard to sex.
- Students may be separated by sex within physical education classes during participation in contact sports.
- Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted separately for males and females.

- Recipient institution may make requirements based on vocal range or quality which result in choruses of one or predominantly one sex. (OCR has since ruled that schools may maintain single sex choruses if they are provided for students of both sexes and if they result from the application of these criteria.)

Schools of vocational education. A local education agency may not, on the basis of sex, exclude any person from admission to any institution of vocational education or any other school or educational unit it operates unless it otherwise makes available to such person, according to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

Counseling and counseling materials. Institutions may not discriminate on the basis of sex in the counseling or guidance of students or applicants.

- They may not use different testing or counseling materials for students on the basis of sex or use materials which permit or require differential treatment of students unless such materials cover the same occupations and interest areas and their use is shown to be essential to eliminate sex bias. Recipients must develop and use internal procedures for ensuring that counseling and testing materials do not so discriminate.
- When a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex (for example, that 80 percent of the students in an advanced math class are male) the recipient must take action to ensure that this disproportion is not the result of sex discrimination by counselors or in counseling materials.

Employment assistance to students. Institutions may not provide services or assistance in the procurement of student employees to agencies or individuals which discriminate on the basis of sex in their employment practices.

Health and insurance benefits and services. Institutions may not discriminate on the basis of sex in providing medical, hospital, accident or life insurance benefits, services, policies, or plans to any students.

Marital or parental status. A recipient may not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. No student may be discriminated against or excluded from an education program or activity on the basis of pregnancy or related conditions unless the student requests voluntarily to participate in a separate portion of the program or activity.

Athletics. The general requirements of the athletics section is that no person, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, inter-collegiate club, or intramural athletics offered by a recipient, and that athletics may not be provided separately on the basis of sex.

Separate teams may, however, be operated for members of each sex where:

- selection for teams is based on competitive skill, or
- the activity involved is a contact sport.

Where an agency/institution operates or sponsors a team in a particular sport for members of one sex but not the other, and athletic opportunities for members of the excluded sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport (boxing, wrestling, rugby, ice hockey, football, basketball, and other sports, the major activity of which involves bodily contact).

In assessing equal opportunity for members of both sexes, HEW will consider:

- whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes,
- scheduling of games and practice time,
- travel and per diem allowance,
- opportunity to receive coaching and academic tutoring,
- assignment and compensation of coaches,
- provisions of housing and dining facilities and services, and
- publicity.

Unequal aggregate expenditures for members of each sex or for male and female teams will not constitute noncompliance, but HEW may consider the failure to provide necessary funds for teams of one sex in assessing equality of opportunity. (Again, dollar-for-dollar expenditures for male and female teams are not required; expenditures necessary to provide equal opportunity are required.)

All institutions/agencies must comply as soon as possible; elementary schools must be in full compliance with this section by July 21, 1976; secondary and postsecondary schools by July 21, 1978.

Facilities. Separate toilet, locker room, and shower facilities may be provided on the basis of sex; those provided for one sex must be comparable to those provided for the other.

Employment Provisions:

The last section of the regulation covers the employment policies and practices of the education institution or agency. Its provisions are closely related to EEOC guidelines issued under Title VII of the Civil Rights Act. Specifically, discrimination is prohibited in:

Access to employment, including

- recruitment policies and practices
- advertising
- application procedures
- testing and interviewing practices

Hiring and promotion, including

- selection practices
- application of nepotism policies
- demotion, layoff, termination
- ~~termination~~

Compensation, including

- wages and salaries
- extra compensations

Job assignments, including

- classification and position descriptions
- lines of progression
- seniority lists
- assignment and placement

Leaves of absence, including

- leaves of temporary disability
- childbearing leave and related medical conditions
- childrearing leave

Fringe benefits, including

- insurance plans
- retirement plans
- vacation time
- travel opportunities
- selection and support for training

Labor organization contracts

The Education Amendments of 1976 included three amendments to Title IX, which provide additional specification of Title IX requirements. The two amendments relevant to local education agencies function to:

- exclude activities held in connection with Boys' Nation, Girls' Nation, Boys' State, and Girls' State from coverage by Title IX
- specify that Title IX does not preclude father-son or mother-daughter activities at an educational institution, provided that these opportunities are reasonably comparable for students of both sexes.

In addition to modification through the amendment process, Title IX requirements are also subject to interpretation through OCR rulings and through court decisions.

One such court decision which has been the subject of recent discussion involves the case of Romeo Community Schools v. U. S. Department of Health, Education, and Welfare. In this case, the Romeo Community Schools sought to stop HEW from enforcing the Title IX regulation provisions regarding employee pregnancy and maternity leave. Although the opinion issued by U. S. District Judge Feikens in April 1977 concluded that Title IX was not intended to reach any of the employment practices of recipients, the judgment entered in May 1977 to implement the opinion declared invalid only that section of the Title IX regulation dealing with the marital and parental status (including pregnancy) of employees. Furthermore, the Office for Civil Rights has announced its decision to continue enforcement of Title IX regulatory requirements related to employment (including those related to pregnancy) as usual outside the jurisdiction of the U. S. District Court for the Eastern District of Michigan."*

The facilitator should conclude the lecturette by again requesting participants to hold their questions for use in the activity immediately following the lecturette.

* Since the Romeo decision, courts in several other U.S. Districts have ruled regarding Title IX coverage of employment. Because their rulings differ, in the different Districts, persons with questions regarding Title IX coverage of employment in their area should seek legal counsel. It must be remembered, however, that sex discrimination in most employment policies and practices of education institutions is prohibited by Title VII of the Civil Rights Act.

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B. Individual activity (5 minutes) and small group discussion (15 minutes)
--"Title IX Questions and Answers" (20 minutes total)

The purpose of this small group question and answer activity is to provide participants with an opportunity to raise questions regarding Title IX requirements and to test their own understandings of (and ability to communicate clearly regarding) these requirements by responding to the questions of others.

The facilitator should introduce this activity with comments such as the following:

"For some of you, this may be your first exposure to Title IX requirements, while others of you may have heard the regulation summarized many times. Many of us, regardless of our familiarity with the words of the Title IX regulation, may not always feel comfortable applying these words to the particular practical situations we encounter."

"In order to test our understandings of Title IX and to obtain assistance with our questions, it is useful to discuss them with others. In fact, one of the most important functions we can perform as we return to our schools and communities is to answer the questions and clarify the misunderstandings of others--our colleagues and friends--regarding Title IX requirements. For this reason, we would like you to spend the next few minutes in small groups, taking turns raising your questions regarding Title IX, and answering those raised by others, if you are able."

"Please spend approximately 5 minutes working individually to write down any questions you have related to Title IX requirements. Then form small groups of four persons each to ask your questions and to try to answer those raised by others. As you discuss in your small groups, make sure that each person has an opportunity to ask at least one question. Make note of any questions which you feel are not answered satisfactorily in your small group; you will have a chance to ask them again in the total group at the end of this activity. You may wish to refer to your summary of the regulation during your discussions. You will have approximately 15 minutes in your small groups, so remember to keep things moving."

Participants should be allowed 5 minutes to write their questions individually, then be asked to form small groups to share questions and answers for 15 minutes. During this time, the facilitator(s) should circulate among the small groups to identify any questions which are "resolved" incorrectly. These should be raised later in the total group if they are not raised by participants. The facilitator should avoid becoming involved in lengthy substantive discussions with the group members; she/he should take care to let participants respond to the questions raised.

C. Total group processing

(10 minutes)

After 15 minutes of small group discussion, participants should come together in the total group to discuss any questions left unresolved. About 10 minutes should be provided for this activity. During this time, questions beyond the knowledge or authority of the facilitator may be raised, as may questions which are hostile or argumentative. It is important that facilitators not become flustered by such questions. Some of the points to be remembered by facilitators at this time are suggested on the next page.

- Facilitators should limit responses to relevant interpretive or factual information without becoming drawn into arguments or emotional exchanges.
- If a facilitator does not know the answer to a question, she/he should admit it and either indicate a willingness to try to provide that information at a later date, or suggest a source for further information.
- If a facilitator meets resistance to any of the regulatory requirements, she/he should avoid being drawn into a position of becoming defensive.

When the time for this activity has expired, the facilitator should close the activity by explaining to participants that:

- they will have an opportunity to assess their ability to apply Title IX requirements to particular situations in an activity on grievance resolution later in this session
- they will be exploring those Title IX requirements most directly related to their own job functions during the Application Sessions which follow Generic Session Two

III. BREAK

TIME REQUIRED: 15 MINUTES

(If there appears to be many questions on Title IX remaining at the close of the total group processing, the facilitator may wish to invite those persons with further questions or interests to remain during the break to discuss these questions. If this opportunity is provided, the facilitator should ensure that there is a knowledgeable resource person available to those who remain.)

IV. THE TITLE IX GRIEVANCE PROCESS: EXAMINING
TITLE IX GRIEVANCE PROCEDURES

TIME REQUIRED: 55 MINUTES

- (A) Lecturette--"The Function and Structure of Title IX Grievance Procedures" (20 minutes)
- (B) Questions and answers (5 minutes)
- (C) Small group discussions--"Evaluating Sample Title IX Grievance Procedures" (20 minutes)
- (D) Total group processing (10 minutes)

Purpose of the activity:

The purposes of this activity are:

- to provide participants a frame of reference for understanding the significance of Title IX grievance procedures as a method for resolving complaints of sex discrimination and for monitoring Title IX compliance
- to provide participants with information regarding the structural components or characteristics of effective grievance procedures
- to provide participants with an opportunity to evaluate several sample Title IX grievance procedures

Materials needed:

For participant use:

- "Sample Title IX Grievance Procedures A and B"(included in participant's notebook--Participant Worksheets 4 and 5)
- "Checklist for Evaluating the Content of a Grievance Procedure A and B" (included in participant's notebook--Participant Worksheets 6 and 7)
- "Sample Title IX Grievance Procedures--Analyses" (included in participant's notebook--Appendix B)

For facilitator use:

- A chart (on newsprint, chalkboard, or acetate transparency)* containing the information on the following page.

* This "chart" may require several sheets of newsprint or several transparencies: unless a large chalkboard is available, it is probably desirable to use newsprint.

Components of a Grievance Procedure

- I. Provisions related to the initiation of grievances
 - A. The definition of who may grieve
 - B. The definition of what shall constitute a grievance
 - C. The stipulation of time limits for the initiation of grievances
 - D. The stipulation of the manner or form in which grievances shall be initiated
 - E. The specification of any assistance available to grievants for the initiation/presentation of a grievance
- II. Provisions related to the processing of grievances
 - A. The number and levels of steps for grievance processing
 - B. The form of grievance presentation or processing at each step
 - C. Requirements for notification of involved parties at various phases of the grievance process
 - D. Timelines governing the various actions or steps within the grievance process
 - E. Procedures which shall govern the conduct of grievance meetings or hearings at any step of the grievance process, e.g.,
 - the minimum time allocated for the grievance hearing
 - the time allocated to each party
 - the right of each party to representation
 - the right to present witnesses and evidence
 - the right to question opposing witnesses
 - the moderation of hearings
 - the right to confidential or public grievance meetings or hearings
 - procedures for recording the meeting or hearing
 - F. Requirements for the filing or submission of written information by the grievant or the respondent
 - G. The specification of the forms which grievance decisions shall take at each step
 - H. The roles and/or the selection of persons involved in grievance processing
- III. Provisions related to the basic procedural rights of the parties to the grievance
 - A. The grievant's right of appeal
 - B. The right of all parties to impartial grievance decisionmakers
 - C. The access of grievants to relevant agency/institutional records
 - D. Protection of grievants from harrassment and retaliation
 - E. Confidentiality of grievance proceedings

Facilitator preparation required:

The facilitator should:

- thoroughly review this outline and all participant materials
- thoroughly review the following supportive material:

Title IX Grievance Procedures: An Introductory Manual by Martha Matthews and Shirley McCune, particularly pages 13-48
(copies may be purchased from the Resource Center on Sex Roles in Education or the Government Printing Office, Washington, D.C. 20402)

- review the suggested lecturette and adapt it to accommodate unique group needs or facilitator style
- prepare or obtain chart or transparency on "Components of a Grievance Procedure"

Procedure:

- A. Lecturette--"The Function and Structure of Title IX Grievance Procedures" (20 minutes)

The purpose of this lecturette is to introduce participants to the continuing significance of the Title IX grievance procedure as a tool for equity which can benefit students, employees, and the local education agency, and to identify for participants some of the components in an effective grievance procedure. The lecturette suggested in the following pages is highly summarized in its coverage of a broad variety of complex issues. Facilitators may choose to emphasize some points and de-emphasize others to fit the needs and concerns of the group. Facilitators should ensure that they are thoroughly familiar with the Manual which supports this outline in order that they may respond to the variety of questions which may arise with regard to the lecturette. Before beginning the lecturette, the facilitator should make sure that the chart, "Components of a Grievance Procedure," is displayed for easy reference by participants.

Suggested lecturette:

"We have talked about the procedural requirements for Title IX compliance. One of these requirements--the maintenance of an internal Title IX grievance procedure--involves all of us in continuing Title IX monitoring and implementation. The Title IX regulation requires that education agencies develop and maintain an internal grievance procedure for the resolution of Title IX complaints of sex discrimination. The determination of the specific procedure to be used is left to the discretion of the agency. The only standard for the grievance procedure which is specified is that it must provide for prompt and equitable resolution of student and employee complaints.

"A Title IX grievance procedure may be defined as a method by which an individual or group may express a complaint or a grievance to an agency alleged to be violating the Title IX regulation and receive a fair hearing and a resolution of the grievance without fear of reprisal. The procedure must function to determine whether or not a violation of the regulation has occurred, and if so, it must also determine the appropriate means for correcting and remedying the violation.

"Participation in the grievance process is both an option of and the ongoing responsibility of every staff member. For the individual staff member it provides:

- a method for the presentation and resolution of grievances of sex discrimination which may have denied the staff member or other employees access to equal opportunity;
- a method for the identification and resolution of grievances regarding sex discrimination in the treatment of students;
- a structure within which various individuals or groups within the agency may discuss and clarify issues relating to sex discrimination;
- a process whereby staff members may be involved in the initiation, implementation, and monitoring of constructive change efforts.

"An effective grievance procedure may similarly provide a number of benefits to the local education agency:

- It provides the agency with a method for identifying and correcting noncompliance which may be denying students or employees their rights to equal treatment without regard to sex and which may ultimately jeopardize the agency's eligibility for Federal funds.
- It provides a mechanism for mutual problem solving among the various groups represented in the education agency by providing a channel for constructive and result-oriented communication.

"In this session we want to examine briefly two basic components of an effective grievance procedure. The first basic component of the procedure to be examined is the nature of the structure provided by the procedure itself. In this instance, we are asking the question:

Do the provisions of the procedure provide an adequate method of result-oriented problem solving?

"The second component which determines the success or failure of a grievance procedure is the human element, or the understandings and skills of persons implementing or involved in the procedure. In this instance, the question which must be asked is:

Do we as educators and concerned individuals have a sufficient level of knowledge and skill to facilitate the meaningful and effective functioning of the procedure?

"Both of these components are essential to effective implementation of a grievance procedure.

"Let's examine the first component--the structure of the grievance procedure. Every grievance procedure should be designed to:

- provide equitability and due process to all parties involved in the grievance

Equitability and due process are enhanced when grievance procedures provide timelines for prompt consideration of the grievance,

the right to impartial hearing officers, the right of appeal to a higher level of consideration, and the right of all parties to present their case and receive a fair hearing

- make utilization and implementation of the grievance procedure as simple as possible while continuing to ensure equitability and actual resolution of the grievance

An effective grievance procedure must be simple to use. To be simple to use, a grievance procedure needn't be briefly written or limited to a single step when implemented. It is likely to be simple and effective when the written procedure clearly states all steps, activities, responsibilities, and timelines, and when assistance and information with regard to Title IX and grievance matters are made available to all parties--grievants, respondents, and decision-makers.

"A number of the basic components of a grievance procedure are listed on the chart posted. Ideally, the structure of a grievance procedure should delineate three types of information:

1. procedures for initiation of a grievance
2. procedures for processing a grievance
3. procedures for ensuring that the rights of all parties are protected

"Because of the importance of Title IX grievance procedures to the provision of equity, we will spend the next few minutes considering each of these areas and some of the issues related to each. As we review, remember that the Title IX regulation does not specify any requirements for the structure of the grievance procedure beyond those of promptness and equitability. The discussion which follows is based on general principles, not legal requirements.

• Procedures for initiation of a grievance

The grievance procedure should specify:

- who may grieve

All students and employees must have access to a grievance procedure for resolution of complaints related to Title IX, though the procedure need not be the same for both groups. (For example, a grievance procedure maintained under a negotiated agreement might be used for employee grievances under Title IX, while a separate procedure is made available for student use.) Use of the grievance procedure by persons filing on behalf of a student or employee or by groups or classes of students or employees, is at the discretion of the school or district.

- what shall constitute a grievance

Generally, a grievance is defined as any allegation of noncompliance with Title IX or the provisions of its implementing regulation. Some grievance procedures have been extended for the handling of issues of sex discrimination not covered under the Title IX regulation or of

issues of racial or ethnic discrimination. This again is at the discretion of the school or district.

- the time limits for filing a grievance

Stipulation of a time limit for the filing of grievance protects all parties to the grievance from the necessity of resolving grievances long after necessary information or witnesses become unavailable. Time limits for filing should, however, be long enough to avoid any appearance of grievance obstruction by the school or school district, and should clearly state whether the limits specified refer to working or calendar days.

- the manner or form in which grievances shall be filed

All grievance procedures should state:

1. whether grievance filing is to be written or oral (Although oral filing may be simpler initially, the filing of a grievance in writing serves to establish records which may be useful later and may encourage the grievant to clarify her/his grievance.)
 2. what information should be provided in filing
 3. with whom grievances should be filed
- the forms of assistance available to grievants for clarification of Title IX requirements or initiation of a grievance

Providing assistance and consultation to potential grievants may reduce the number of inappropriate grievances filed (those which involve issues not included under the grievance procedure) and may assist grievants in clarifying their complaints, thus saving processing time. Extreme care should be taken at this state, however, to avoid either the fact or appearance of grievance obstruction or dissuasion.

• Procedures for processing a grievance

The grievance procedure should specify:

- the number and levels of steps for grievance processing

Most formal grievance procedures provide that grievances shall move from an initial level (often informal) involving only the grievant, the person immediately responsible, and her/his immediate supervisor, through a series of appeal steps involving progressively higher levels, up through the governing body of an institution or school district. The progression is designed to ensure consideration of the grievance by persons differentially involved or affected by the outcome of the grievance resolution.

The crucial point to remember in determining the number and levels of grievance processing steps appropriate to an institution or district is that each step should provide an opportunity for actual grievance resolution. Only those persons with authority to mandate action to correct or remedy any discrimina-

tion identified should be involved in grievance decisionmaking. An example of a progression of steps which might be appropriate in a local education agency is:

• Step 1 - Building-level authority: school principal

Step 2 - Central administrative-level authority: superintendent or assistant superintendent

Step 3 - Governance-level authority: board of education or designees

the form of grievance presentation and processing at each step

The presentation and processing of grievances may be completely oral, completely written, or some combination of the two forms, perhaps in the context of a formal hearing. If presentation and processing are completely oral (this is usually more appropriate at the pre-grievance stage), procedures must be developed to ensure adequate recording. The presentation and processing of grievances entirely in writing may deny opportunities for presentation of evidence and for back-and-forth questioning of parties to the grievance which may be necessary for grievance resolution. In most procedures, as the level of administrative authority increases with each grievance step, the procedures for presentation and processing become more formalized and specific. In many procedures, the final processing involves a formal grievance hearing in which the parties to the grievance present positions, evidence, and witnesses, and question those presented by the other party, according to a specified format. The prime consideration involved in determining the forms of grievance presentation and processing should be the assurance of due process to all parties.

requirements for notification of involved parties at various phases of the grievance process

In order to ensure due process, all parties to the grievance must be notified at various phases regarding grievance developments and their own grievance responsibilities. Notification is necessary when:

- an individual has been named in a Title IX grievance
- a grievance meeting or activity is scheduled
- a grievance decision or ruling has been made

timelines governing the various actions or steps within the grievance process

Prompt processing is essential to the effectiveness of a grievance process. Timelines should be established for virtually every action within the grievance process--grievance filing, procedural notifications, the scheduling and implementation of grievance meetings or hearings, the provision of grievance decisions, the filing of grievance appeals, etc.

In most education agencies, five working days are the maximum which should elapse between any two grievance actions. Provisions may be established for waiving the timelines by consent of all parties.

- procedures which govern the conduct of grievance meetings or hearings at any step of the grievance process

Grievance meetings or hearings should be conducted with sufficient informality to allow persons without legal training to participate fully. It is useful, however, to specify some general guidelines for conducting grievance meetings because this provides all parties with a common framework from which to operate and it ensures that all grievances are handled in a similar way. Among the specifications which may be made are:

- the minimum time allocated to a grievance hearing
 - the time allocated to each party
 - the right of each party to representation
 - the right to present witnesses and evidence
 - the right to question opposing witnesses
 - responsibilities for the moderation of the meeting or hearing
 - the grievant's right to determine whether the meeting will be public or closed and confidential
 - the procedures for recording the hearing or meeting
- requirements for the filing or submission of information by the grievant or respondent

Just as the filing of grievances in written form serves to establish written records and may assist in the clarification of grievance issues, so may the submission of written grievance responses (statements by any persons alleged to have been responsible for Title IX violations).

- specification of the form which grievance decisions should take at each step

Grievance decisions at each step should contain two types of information:

- the decision regarding the validity of the allegation of a Title IX violation, and if the allegation is held valid
- the specification of any actions which will be taken to correct or redress the violation

Written grievance decisions provided to the grievant, any respondents named, and the Title IX coordinator facilitate grievance administration and recordkeeping, and minimize the possibility of misunderstanding by any party to the grievance.

- the role and/or selection of persons involved in grievance processing

Many grievance procedures delineate roles within the processing of grievances which involve persons other than the grievant, the respondent, and their representatives. These roles may include assisting grievants in grievance preparation, moderating grievance hearings, recordkeeping, fact finding, etc. Where such roles are involved, the duties of and the qualifications required by persons fulfilling them should be specified.

- Procedures for ensuring that the rights of all parties are protected

The grievance procedure should specify:

- the grievant's right of appeal

The right of grievants to appeal grievance decisions to higher levels of consideration is one of the most basic components of an equitable grievance procedure. It ensures that all grievance decisions (except those at the final level) are subject to review and modification, and it protects all parties from the bias which may occur at any single level. Procedures which provide for grievance decisionmaking at several levels of authority build in an appeal mechanism. The right of appeal should be clearly stated within the grievance procedure, and all responsibilities of the grievant related to timelines, procedures, and forms for appeal should be clearly stated. Notification of the right of appeal might also be included in notification of grievance decisions.

- the right of all parties to impartial grievance decisionmakers

The right of all parties to a grievance to impartial grievance decisionmakers is a basic component of an equitable grievance procedure. The maintenance of impartiality within an internal grievance procedure (one in which grievance decisions are made by a representative of the institution in which discrimination is alleged to have occurred) may be addressed in several ways:

- by referring grievances which are alleged to have occurred at one level (e.g., the school) to the next level for processing (e.g., the central administrative office)
- by delegating the grievance processing authority of the agency administration or governance to a person or group of persons more likely to be impartial. Delegation of authority to a grievance hearing panel composed of community members, faculty, administrators, and in some cases students, is one method often used. If this is done, the extent of the authority delegated--whether it is final or merely advisory--should be specified.

In addition to such structural means of increasing impartiality, it is critical that all grievance decisionmakers receive training in Title IX requirements and in basic principles of equity in grievance processing. Requirements for such training may be specified within the written grievance procedure.

- the access of grievants to relevant agency/institutional records

Two primary considerations are involved in this issue:

- the right of the grievant to information relevant to her/his grievance which may be in possession of the agency/institution
- the responsibility of the agency/institution to protect information which is legitimately collected under guarantee of confidentiality

Both rights are of sufficient importance to require that some compromise be developed. Many agencies have implemented a procedure whereby all relevant records are made available with names and identifying information not bearing on the validity of the grievance removed. Both the 'sunshine' laws and the right-to-privacy laws of a state may, of course, have impact on this portion of the grievance procedure.

- the protection of grievants from harassment and retaliation

The protection of grievants or participants in the grievance process from harassment, reprisals, or retaliation must be specifically assured in a written grievance procedure and strictly enforced by all persons within an agency/institution.

- the confidentiality of grievance proceedings

Maintenance of confidentiality regarding names and identifying information related to the parties of a grievance (unless confidentiality is waived by the grievant) serves to help protect all parties from harassment and reprisals, and may in fact encourage discussion and problem exploration in a protected environment. Information regarding the substantive issues and decisions involved in the grievance may be made public when identifying information is removed.

"It should be pointed out that many grievance procedures will not include specification of all these items. This does not mean that the procedure is not in compliance with the Title IX regulation; rather, examination of the scope of specification that is possible in a grievance procedure provides a basis for determining if modification of the present procedure may be useful."

B. Questions and answers

(5 minutes)

After completing the lecturette, the facilitator should allow approximately 5 minutes for participants to ask questions in the total group. (The facilitator may, of course, choose to respond to questions during the lecturette. If so, she/he should make sure that the questions do not digress in such a way that the basic points of the lecturette are not covered, and that the time elapsed does not exceed the total 25 minutes allocated in this outline for the combined lecturette/question and answer activities.)

One of the questions frequently raised by participants concerns the options available to a grievant who has exhausted the internal grievance procedure, completing all possible steps and receiving a final decision which she/he believes is illegal or invalid. If this question occurs, the facilitator should remind participants of the possibility of filing a complaint with the Office for Civil Rights. It may also be useful in this context to remind participants that, by definition, a school district or education agency is the ultimate authority in an internal process and that for this reason, the internal process cannot be expected to serve the same functions as a Federal complaint or court suit.

On occasion, technical questions regarding potential relationships between provisions of the grievance procedure and various state laws affecting public access to or privacy of school records may arise. If these questions are beyond the expertise of the facilitator, the participant should be referred to legal counsel.

C. Small group discussions--"Evaluating
Sample Title IX Grievance Procedures" (20 minutes)

The purpose of this small group activity is to provide participants with "hands-on" experience in the application of the points made in the preceding lecturette to the evaluation of several sample Title IX grievance procedures. Participants are provided a "Checklist for Evaluating the Content of Grievance Procedures," which corresponds in its organization to the lecturette, to help them analyze whether or not various components are included in the sample grievance procedures. Through this activity, participants should increase their skills for evaluating the adequacy of the grievance procedures in their own schools and school districts.

The facilitator should introduce the activity with comments such as the following:

"Some of the points that we've just discussed regarding the structure and components of grievance procedures may seem technical and somewhat removed from many of our day-to-day activities. It is important to remember, however, that the Title IX grievance procedure is important to each of us as a means of:

- ensuring that our own rights are protected whether or not we file a grievance or are named in a grievance*
- ensuring that the rights of our students and colleagues are protected*
- ensuring that a problem-solving procedure exists whereby persons can explore and resolve problems related to the provisions of sex equity, without the necessity of outside intervention*

If a grievance procedure is to function effectively in these ways, it is important that necessary structures be provided and specified.

"Each of us can play a valuable role in analyzing the grievance procedures in our own schools or school districts to ensure that they are effective and equitable. We need to be able to examine our procedure asking the question:

Do the provisions of the procedure provide an adequate method of result-oriented problem-solving?

To help us in determining the answer to this question, you will find in your participant notebook two copies of the 'Checklist for Evaluating the Content of a Grievance Procedure.' You will notice that the questions it asks correspond to the points we've just discussed. Remember that a 'no' answer to a question does not mean that the procedure is not in compliance with Title IX; it merely indicates an area in which the procedure might be made more specific and perhaps more effective.

"For the next few minutes, we'd like to work with this checklist in small groups of about four to six persons, reviewing the two sample Title IX grievance procedures included in your materials. You should work as a group on one procedure and then on the other. You have two copies of the Checklist, one for each procedure. Try to review the two procedures in about 20 minutes."

Participants should form their small groups and work for approximately 20 minutes. During this time, the facilitator(s) should circulate among the groups to observe and note any issues which should be discussed during total group processing. Although the facilitator may make brief clarifying remarks, she/he should avoid detracting from or taking over the small group activity.

D. Total group processing

(10 minutes)

After participants have had approximately 10 minutes to complete the Checklists in their small groups, the facilitator should call them together in the total group to process the activity. During the processing, opportunity should be provided for participants to raise any specific questions they have regarding the sample procedures. Facilitators should review the completed checklists for each procedure (these are attached to this session outline) and/or complete the checklists her/himself in order to prepare to respond to any specific questions raised. The facilitator should also raise the following questions during the processing:

- Which procedure is more complete? Why?
- Under which procedure would participants choose to file a grievance? Why?
- Under which procedure would participants choose to have a grievance filed against them?
- What is the single most important change participants would choose to make in the sample procedures?
- What particular elements will they look for in evaluating their own Title IX grievance procedures?

The facilitator should be sure to call the attention of participants to the weakness of both procedures regarding the specification of procedures to protect the rights of all parties to the grievance.

The facilitator should conclude the activity by reminding participants that the structural provisions of the Title IX grievance procedure utilized in their school districts can significantly affect:

- their personal rights
- the ability of their school districts to monitor effectively Title IX compliance and to protect themselves, their employees, and their students from sex discrimination

V. THE TITLE IX GRIEVANCE PROCESS: IMPLEMENTING
TITLE IX GRIEVANCE PROCEDURES

TIME REQUIRED: 50 MINUTES

- (A) Lecturette--"Implementing Title IX Grievance Procedures" (5 minutes)
- (B) Individual activity and small group discussions--"Evaluating Sample Title IX Grievances" (35 minutes)
- (C) Total group processing (10 minutes)

Purpose of the activity:

The purposes of this activity are:

- to increase participants' awareness of positive attitudes which can contribute to the effective implementation of the Title IX grievance procedure
- to increase participants' understanding of their own responsibilities for grievance problem solving and the elimination of sex discrimination
- to increase participants' skills in identifying violations of the Title IX regulation
- to increase participants' skills in identifying or formulating corrective actions and remedial measures which may be taken to redress Title IX violations

Materials needed:

For participant use:

- "Sample Title IX Grievances" (included in participant's notebook--Participant Worksheets 8-16)
- "Sample Title IX Grievances--Analyses" (included in participant's notebook--Appendix C)

For facilitator use:

- A chart (on newsprint, acetate transparency, or chalkboard) containing the following definitions:

Corrective action: taken to modify a discriminatory policy, program, or practice to attain its compliance with Title IX requirements

Remedial measure: taken to overcome the effects of the discriminatory policy, program, or practice

Facilitator preparation required:

The facilitator(s) should:

- thoroughly review this outline and all participant materials
- review the suggested lecturette and adapt it to accommodate unique group needs or facilitator style

- prepare or obtain chart or transparency with definitions of "corrective action" and "remedial measure"

Procedure:

A. Lecturette--"Implementing Title IX
Grievance Procedures" (5 minutes)

The purpose of this lecturette is to review for participants issues relating to their own participation (or the participation of other education personnel) in the implementation of the Title IX grievance procedure and in grievance resolution, and to provide them with guidelines for considering their own potential roles in grievance processing and resolution. The lecturette is also intended to provide a frame of reference for the sample grievance resolution activity which follows it.

Suggested lecturette:

"In the preceding discussion and activity, we focused on the formal or structural issues related to Title IX grievance procedures. We were considering the question:

Do the provisions of the procedure provide an adequate method of result-oriented problem solving?

"For the rest of this session, we will turn our attention to the second aspect of Title IX grievance procedures--the human factors in their implementation. We will be asking the question:

Do we and other staff members of our school district have a sufficient level of knowledge and skill to facilitate the meaningful and effective functioning of the procedure?

"We will first review some basic points regarding effective staff participation in grievance processing, and then we will be working in small groups to check our understandings of Title IX requirements and our skills in Title IX grievance resolution.

"It is important to remember that our Title IX grievance procedures will be only as effective as we as individuals make them. Our attitudes, knowledge, and skills (and those of our colleagues) are critical determinants in the success of our grievance procedures. Each of us must recognize that the elimination of sex discrimination in schools is one of our ongoing responsibilities as educators. We need to establish a problem-solving climate which can support continuing effort by all persons to identify and modify behavior or programs which may be discriminatory. Allegations of Title IX violations are a valuable form of personal and institutional feedback. If a grievance has merit, it provides the opportunity to correct a specific problem; if the grievance is without merit, it provides an opportunity to explore the circumstances which may be responsible for the allegation of discrimination.

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"Some of the basic staff understandings that facilitate positive implementation of the grievance process include:

- Discrimination against students is a serious problem, and all efforts must be made to provide full equity to students and employees. This is both a legal and an educational responsibility of schools.
- The Title IX grievance procedure is a positive, effective method for solving those problems related to sex discrimination.
- The use of the Title IX grievance process is a basic right guaranteed to students and employees by Federal law and regulation.
- Although being named respondent in a grievance is not a pleasant experience, it can provide important feedback and the opportunity to improve our personal and/or institutional effectiveness.

"Just as we may, as employees of a school district, file a Title IX grievance, we may also as employees, be named in a Title IX grievance filed by someone else (a student or another employee), or we may be called upon to participate in processing or resolving a grievance filed by someone else. As persons with potential responsibility for grievance processing or decisionmaking, we should remember the following guidelines for grievance processing:

- Be thoroughly familiar with the written grievance procedure: understand the processing steps and the responsibilities and rights of all parties involved in the grievance and in grievance processing.
- Examine the Title IX regulation and related memoranda, directives, guidelines, and amendments to identify their relevance to the grievance.
- Withhold judgment regarding the validity of the grievance; do not move to a position of denial or defense.
- Maintain an open and objective attitude.
- Avoid talking about blame, either directly or indirectly.
- Do not express preconceived notions, ideas, judgments, or conclusions.
- Do not predict outcomes."

B. Individual activity and small group discussions--"Evaluating Sample Title IX Grievances" (35 minutes)

The purpose of this activity is to provide participants with the experience of evaluating sample grievance allegations of the Title IX violations and formulating appropriate corrective actions and remedial measures where necessary. It also provides another opportunity for participants to assess their understandings of Title IX requirements.

The facilitator should introduce the activity with comments such as the following:

"To increase our ability to apply Title IX requirements to various specific situations and to develop our skills for Title IX grievance decisionmaking, we would like to spend the rest of this session evaluating several sample Title IX grievances. Whether or not each of us is ever actually called upon to participate in Title IX grievance resolution, it is critical that each of us be able to identify instances of illegal sex discrimination in the practices and programs for which we are responsible and those we observe and to identify actions which can be taken to correct this discrimination and its effects.

"In your participant materials you should find nine sheets entitled, 'Sample Title IX Grievances.' They provide several examples of grievances filed with local education agencies. In some instances the grievance constitutes a violation of Title IX and, in other instances, there is no violation of Title IX requirements. We're going to ask you to read through each grievance and make a determination of whether the grievance is a violation of the Title IX regulation. When you have made your decision, please indicate it in the appropriate place on the back of the sheet.

"If you decide that the grievance is a violation of the Title IX regulation, indicate any corrective actions or remedial measures that you believe would be appropriate. Remember that a corrective action is one that is taken to modify a discriminatory policy, program, or practice to attain compliance with Title IX. A remedial measure would be any action that is taken to overcome the effects of the discriminatory policy, program, or practice. These definitions are posted on the chart for your reference.

"For example, if female students were not permitted to join the school-sponsored Young Scientists Club, a violation of Title IX would have occurred. Corrective actions might include changing the policy to permit the admission of female students and admitting those female students that apply for membership. Remedial measures might take the form of distributing announcements to all students to let them know of the change in policy and to encourage them to apply for membership. Both corrective actions and remedial measures will vary according to the grievance situation.

"You will have about 10 minutes to review and decide the grievances individually. Then you will have a chance to discuss your decisions in small groups. Work through as many as you can; you need not complete them all before moving to your small group."

The facilitator should allow about 10 minutes for individuals to read the grievances, to decide whether they are violations of the Title IX regulation, and to delineate corrective steps and remedial measures.

When most of the participants have finished the assigned task, they should be asked to form small groups of about four persons each. The members of the group should then compare their grievance decisions and identify those corrective actions and remedial measures which they believe to be most appropriate for the specific grievance. Approximately 25 minutes should be allowed for this activity.

While the groups are discussing the grievances, the facilitator(s) should walk around the room and observe the discussion groups. If it would be useful to provide a clarifying comment, the facilitator should feel free to do so but this should not be permitted to detract from the group members' discussion. In observing the groups, the facilitator

should consider the following questions:

- What misunderstandings or confusions about the Title IX regulation can be identified?
- Are group members able to recognize violations of the Title IX regulation?
- Can group members distinguish between corrective actions and remedial measures?
- Can group members identify appropriate corrective actions and remedial measures?

This diagnosis of the problems encountered during the discussion should provide the facilitator with a basis for processing and summarizing the discussions with the total group.

After the small groups have had approximately 25 minutes to discuss their grievance decisions, a total group discussion should be initiated by the facilitator. This discussion should provide the opportunity for participants to check their perceptions with members of other groups and with the facilitator(s). Group members should also have an opportunity to share their suggestions for corrective actions and remedial steps. These might be noted on newsprint or chalkboard by a facilitator or small group recorder so that members of the group have an opportunity to react to the variety of suggestions.

The facilitator should be familiar with the sample grievance analyses provided so that she/he may introduce information which might not otherwise arise during processing. The facilitator should also direct the discussion in such a way to permit clarification of points that were observed to be unclear during small group decisions.

In concluding the total group discussion, the facilitator should encourage participants to complete later any grievance worksheets left unfinished. She/he should also refer participants to the "Sample Grievance Analyses" contained in their participant materials. In so doing, she/he should point out that the analyses are only illustrative and should not be interpreted as official policies of the Office for Civil Rights. Participants may be urged to compare their responses with these suggestions to identify similarities and differences. Such differences may indicate the range of creative grievance decisions appropriate for the range of local situations.

VI. SUMMARY OF GENERIC SESSIONS AND PREVIEW
OF THE APPLICATION SESSIONS

TIME REQUIRED: 5 MINUTES

Purposes of the activity:

The purposes of this activity are to:

- generally summarize the first two Generic Sessions
- provide a transition from the Generic Sessions to the Application Sessions

Materials needed:

For participant use:

- "Workshop Agenda" (in participant notebook)

For facilitator use: None

Facilitator preparation required:

The facilitator should:

- review the objectives of the two Generic Sessions as listed in the "Session Specifications" portion of each session outline
- review the suggested comments and adapt them to fit unique group needs and facilitator style

Procedure:

The purpose of this final activity in Generic Session Two is to assist participants in understanding the relationship between their workshop experiences so far and the two Application Sessions which follow. The facilitator should make comments similar to the following:

"In this last session of the workshop, and also in the first session, we have been focusing on issues and activities which are of importance to all educators and to persons concerned with educational equity. Briefly, we have:

- *considered the legal context for Title IX*
- *considered the educational/social context for Title IX*
- *reviewed the specific requirements of Title IX and its implementing regulation*
- *discussed the significance of Title IX grievance procedures as a tool for monitoring Title IX implementation and protecting the rights of students and educators*
- *examined the components of an effective Title IX grievance procedure*
- *practiced our own skills in identifying grievances violating Title IX requirements and in developing actions which can correct and remedy identified discrimination*

The information and skills reflected in these activities are information and skills which we may all bring to bear on efforts to implement Title IX and to achieve sex equity.

"In the sessions to follow, we will shift from those areas of information and skill which we should share in common to those areas which may be organized according to the particular roles we play in our schools or school districts. We will be participating in the next two sessions in groups which are organized according to the following roles:

- administrators, board members, and Title IX coordinators
- teachers and instructional personnel
- counselors
- physical education and athletics staff
- vocational education personnel
- community group members

In both of these sessions, we will be working to specify the implications of Title IX requirements for our own job functions, to identify the steps that we can take in our jobs to increase sex equity for females and males in education, and to increase our skills related to both Title IX implementation and sex equity. There will be two application sessions for each group; they are sequential, not interchangeable. Each of you will need to attend both application sessions for your role group."

The facilitator should conclude by presenting any housekeeping information necessary, e.g., the times for the Application Sessions; the locations for the various groups, etc.

THE TITLE IX REGULATION AND GRIEVANCE PROCESS

Participants' Materials for Generic Session Two

Prepared for the
Title IX Equity Workshops Project
of the Council of Chief State School Officers

by the
Resource Center on Sex Roles in Education
National Foundation for the Improvement of Education

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972--
A SUMMARY OF THE IMPLEMENTING REGULATION

Participant Worksheet 3A

Introduction

Title IX of the 1972 Education Amendments is the first comprehensive Federal law to prohibit sex discrimination in the admission and treatment of students by education institutions receiving Federal financial assistance. Sex discrimination in the employment policies and practices of educational institutions is also prohibited. The law reads:

"No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

The implementing regulation for Title IX was issued by the Secretary of Health, Education, and Welfare in June 1975. Its provisions may be grouped into five major sections--general provisions (contained in Subpart A of the regulation), which outline the general procedures required for ensuring nondiscrimination and compliance with the regulation; coverage provisions (Subpart B of the regulation), which identify the education institutions, programs, and activities covered by the regulation; admissions provisions (Subpart C of the regulation), which specify prohibitions of discrimination in the recruitment and admission of students; provisions pertaining to the treatment of students in educational programs and activities (Subpart D of the regulation), which delineate the standards of nondiscrimination in student programs; and employment provisions (Subpart E of the regulation), which establish the requirements for nondiscrimination in employment.

Following is a summary of the regulation. It follows the sequence of the regulation itself; the number contained in brackets at the end of each summary paragraph refers to the section of the regulation from which the information is derived. Notes on enforcement procedures under Title IX and on recent amendments and interpretation of the legislation conclude the summary.

Two definitions contained in the regulation are of importance to users of this summary:

Recipient: The "recipient" referred to throughout the summary is defined as "any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance."

/§86.2(h)/

Federal financial assistance: Education agencies or institutions which receive any of the following are considered recipients of "Federal financial assistance" for purposes of Title IX:

- grants or loans from the Federal government, including funds for:
 - acquisition, construction, or renovation of buildings or facilities;
 - scholarships, loans, grants, wages or other funds extended for payment to or on behalf of students of the institution, whether paid to the institution or directly to students for payment to the institution
- grants of Federal property
- provision of the services of Federal personnel
- any other contract, agreement or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty. /§86.2(g)/

Copies of the regulation have been supplied to all local education agencies and postsecondary institutions. Copies of the regulation may also be obtained from the Department of Health, Education, and Welfare, Washington, D. C. 20201.

TITLE IX - A SUMMARY OF THE IMPLEMENTING REGULATION

GENERAL PROVISIONS

Remedial action. In the event of a finding of sex discrimination by the Director of the Office for Civil Rights in an education program or activity of a Federally assisted institution or agency, the institution or agency may be required to take remedial action to overcome the effects of such discrimination. Such requirement would be specified by the Director. /§86.3(a)/

Affirmative action. In the absence of a finding of sex discrimination, a recipient education institution may take affirmative action to overcome the effects of conditions which resulted in limited participation by persons of a particular sex. /§86.3(b)/

Self-evaluation. Every education institution receiving Federal funds must, within one year of the effective date of the regulation:

- evaluate its policies and practices as to their compliance with the regulation;
- modify its policies and practices as necessary for compliance;
- take appropriate remedial steps to eliminate the effects of discrimination resulting from these policies and practices.

(This evaluation should have been completed by July 21, 1976.) A description of any modifications and remedial actions taken must remain on file for at least three years following completion of the evaluation. /§86.3(c)/

Assurance required. Every application for Federal financial assistance for any education program or activity must as a condition of its approval, contain or be accompanied by an assurance form certifying compliance with the regulation. (Forms 639 and 639A have been supplied by the Office for Civil Rights, HEW; agencies and institutions without forms on file with OCR face termination of Federal financial assistance.) /§86.4/

Designation of responsible employee. Every recipient must designate at least one employee to coordinate compliance efforts and investigate any complaints of sex discrimination; all students and employees must be notified of the name, office address and phone number of this employee. /§86.8(a)/

Grievance procedures. Every recipient must adopt and publish grievance procedures providing for resolution of student and employee complaints. (Utilization of these procedures is not a prerequisite for Federal action.) /§86.8(b)/

Notification of policy. Recipients must take specific and continuing steps to notify applicants for admission, students, parents, employees, and all unions or professional organizations holding bargaining or professional agreements with the recipient of its compliance with Title IX. Initial notification was required by October 19, 1975. /§86.9(a)/

Publications. Recipients must include a policy statement of nondiscrimination on the basis of sex in each announcement, bulletin, catalog, application form, or other materials used in connection with the recruitment of students or employees. No publication should suggest, by text or illustration, that the recipient treats students, applicants, or employees differently on the basis of sex except as permitted by the regulation.

/§86.9(b)/

COVERAGE

General. The regulation applies to every recipient and to each education program or activity operated by a recipient which receives or benefits from Federal financial assistance. (Information regarding judicial interpretation of this language is provided in the preamble to the regulation. In analogous cases regarding racial discrimination, courts have held that the education functions of a school district or college include any service, facility, activity or program which it operates or sponsors, including athletics and other extracurricular activities, and the Federal funds may be terminated upon a finding that "they are infected by a discriminatory environment.") /§86.11/

Exemptions from coverage include: educational institutions controlled by religious organizations, to the extent that compliance would not be consistent with religious tenets; military and merchant marine educational institutions; and social fraternities and sororities in postsecondary institutions, YMCA's and YWCA's, Girl and Boy Scouts, Camp Fire Girls, and other voluntary youth service organizations. /§86.12, §86.13 and §86.14/

Coverage of the admissions provisions applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education, other than those which have been traditionally and continually single sex. This does not include first-degree professional and vocational programs offered at private undergraduate institutions. /§86.15/

ADMISSIONS

The regulation requires that no person may, on the basis of sex, be denied admission or be subject to discrimination in admission by any recipient subject to the admissions provisions of Title IX. Specifically prohibited are:

- ranking applicants separately on the basis of sex;
- applying numerical limitations on the number or proportion of either sex who may be admitted;
- treating one individual differently from another on the basis of sex;
- administering any test or criterion for admission which has a disproportionately adverse effect on members of one sex unless such test or criterion is shown to validly predict success in the education program or activity and alternative tests are not available;

- applying any rule concerning the actual or potential parental, marital, or family status of a student which treats persons differently on the basis of sex;
- discriminating against or excluding any person on the basis of pregnancy or related conditions (these must be treated as any other temporary disability);
- making pre-admission inquiry as to the marital status of an applicant. /§86.21(a), (b), (c)/

Discrimination in the recruitment of applicants for admission is also prohibited:

- preference may not be given nor may applicants for admission be recruited on the basis of attendance at an educational institution which is predominantly single sex unless the pool of applicants eligible for such preferences includes roughly equivalent numbers of males and females; /§86.22/
- a recipient may not discriminate on the basis of sex in the recruitment of students unless additional recruitment efforts for members of one sex are undertaken as remedial or affirmative action. /§86.23(a)/

TREATMENT OF STUDENTS IN EDUCATION PROGRAMS AND ACTIVITIES

General. All education institutions or activities receiving Federal financial assistance are subject to these regulatory requirements, including those whose admissions are exempt from coverage. This portion of the regulation requires that:

"...no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training or any other education program or activity operated by a recipient" (emphasis added). /§86.31(a)/

It specifically provides that recipient institutions may not, on the basis of sex:

- provide different aid, benefits, or services;
- deny any person such aid, benefit, or service;
- subject any person to separate or different rules of behavior, sanctions, or other treatment;
- discriminate against any person in the application of any rules of appearance;
- apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state tuition;
- provide significant assistance (defined in the preamble to the regulation as facilities or a faculty sponsor) to any agency, organization or person which discriminates on the basis of sex in providing any aid, benefits or service to students or employees;
- limit any person in the enjoyment of any right, privilege, advantage, or opportunity. /§86.31(b)/

Assistance administered by an institution for study abroad. A recipient institution may administer awards established by foreign or domestic legal instruments restricted to members of one sex which are designed to provide opportunities for study abroad provided the institution otherwise makes available reasonable opportunities for members of the other sex. /§86.31(c)/

Programs not operated by recipients. A recipient institution may not facilitate, require, permit, or consider as part of an activity or program it operates, participation by any applicant, student, or employee in a program not operated by the recipient which discriminates on the basis of sex. This includes participation in educational consortia and cooperative employment and student teaching assignments. /§86.31(d)/

Housing. A recipient may not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing. A recipient may provide separate housing on the basis of sex, provided that housing provided for students of one sex, when compared to that provided to students of the other, is as a whole proportionate in quantity to the number of students of that sex applying and comparable in quality and cost to the student. /§86.32(a), (b)/

A recipient which assists any agency or person in making housing available to its students must take reasonable action to assure itself that housing provided is proportionate in quantity and comparable in quality and cost to students of both sexes. A recipient may not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by the recipient. /§86.32(c)/

Facilities. A recipient may provide separate toilet, locker room and shower facilities on the basis of sex; those provided for one sex must be comparable to those provided for the other. /§86.33/

Course offerings. Course offerings or other education activities may not be provided separately on the basis of sex, nor may participation therein be refused or required on such basis. Included are health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. /§86.34/

- With respect to physical education courses, institutions must comply with this requirement as expeditiously as possible but in no event later than one year from the effective date of the regulation at the elementary level /July 21, 1976/ and three years from the effective date at the secondary and postsecondary levels /July 21, 1978/. Students may be grouped by ability in physical education classes and activities as long as ability is assessed by objective standards, and developed and applied without regard to sex. Students may be separated by sex within physical education classes during participation in contact sports. /§86.34(a), (b), (c)/
- Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted separately for males and females. /§86.34(e)/

- Recipient institutions may make requirements based on vocal range or quality which result in choruses of one or predominantly one sex. /§86.34(f)/

Schools of vocational education. A local education agency may not, on the basis of sex, exclude any person from admission to any institution of vocational education or any other school or educational unit it operates unless it otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service and facility offered in or through such schools. /§86.35/

Counseling and counseling materials. Institutions may not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants. /§86.36(a)/

- Recipients may not use different materials for students on the basis of sex or use materials which permit or require differential treatment of students on such basis unless such materials cover the same occupations and interests areas and their use is shown to be essential to eliminate sex bias. Recipients must develop and use internal procedures for ensuring that counseling materials do not so discriminate. /§86.36(b)/
- Where a recipient finds that a particular class or course of study contains a substantially disproportionate number of individuals of one sex, the recipient must take such action as is necessary to assure itself that this disproportion is not the result of sex discrimination by counselors or in counseling materials. /§86.36(c)/

Financial assistance. Recipients may not, on the basis of sex:

- provide different amounts or types of financial assistance, limit eligibility for such assistance, or apply different criteria;
- apply any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other with regard to marital or parental status;
- assist, through solicitation, listing, approval or provision of, facilities or services, any agency or person which provides assistance to a recipient's students in a manner which discriminates on the basis of sex. /§86.37(a)/

Recipients may administer financial assistance established by domestic or foreign instruments which require that awards be made to members of a specified sex provided that the overall effect of the awarding of such sex-restricted funds does not discriminate on the basis of sex. To ensure such nondiscriminatory effect:

- students must be selected for awards of financial assistance on the basis of nondiscriminatory criteria;
- an appropriate sex-restricted award should be allocated to each student selected;
- no student may be denied the award for which he or she was selected because of the absence of financial assistance designed for a member of that student's sex. (According to the preamble of the regulation,

if there are insufficient sources of financial aid designated for members of a particular sex to provide funds for students of that sex selected, the institution is required to obtain the necessary funds from other sources or to award less assistance from the sex-restricted sources.) /§86.37(b)/

If a recipient awards athletic scholarships, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or inter-collegiate athletics. Separate athletic scholarships for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with the portion of the regulation dealing with athletics. /§86.37(c)/

Employment assistance to students. A recipient institution which assists any agency or person in making employment available to its students must assure itself that employment is made available without discrimination; it may render no services or assistance to agencies or individuals which discriminate on the basis of sex in employment practices. /§86.38/

Health and insurance benefits and services. Institutions may not discriminate on the basis of sex in providing medical, hospital, accident or life insurance benefits, services, policies or plans to any students. This does not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. Any recipient which provides full coverage health services must provide gynecological care. /§86.39/

Marital or parental status. A recipient may not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. /§86.40(a)/

No student may be discriminated against or excluded from an education program or activity (including any class or extracurricular activity) on the basis of pregnancy or related conditions unless the student requests voluntarily to participate in a separate portion of the program or activity. /§86.40(b)/

- A recipient may require a pregnant student to obtain a physician's certification of her physical and emotional ability for normal participation in the education program or activity if such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.
- A recipient which operates a portion of its education program separately for pregnant students, admission to which is voluntary, must ensure that this program is comparable to the program offered to non-pregnant students.
- A recipient must treat pregnancy and related conditions in the same manner and under the same policy as any other temporary disability with respect to any medical or hospital benefit, service or policy in which such recipient participates with respect to students. If there is no leave policy maintained for students, pregnancy and

related conditions must be treated as justification for a leave of absence, after which a student shall be reinstated to the status she held before the leave began. §86.40(b)

Athletics. The general requirement of this section is that:

"...no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide athletics separately on such basis."

§86.41(a)

Separate teams may, however, be operated for members of each sex where:

- selection for such teams is based upon competitive skill; or
- the activity involved is a contact sport.

Where a recipient operates or sponsors a team in a particular sport for members of one sex but operates no such team for members of the other, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport (boxing, wrestling, rugby, ice hockey, football, basketball and other sports the major activity of which involves bodily contact). §86.41(b)

Equal opportunity for members of both sexes must be provided in interscholastic, intercollegiate, club or intramural athletics operated or sponsored by a recipient. In assessing the availability of equal opportunity, HEW will consider, among other factors:

- whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
- provision of equipment and supplies;
- scheduling of games and practice time;
- travel and per diem allowance;
- opportunity to receive coaching and academic tutoring;
- assignment and compensation of coaches;
- provision of locker rooms, practice and competitive facilities;
- provision of housing and dining facilities and services;
- publicity.

Unequal aggregate expenditures for members of each sex or for male and female teams will not constitute noncompliance, but HEW may consider the failure to provide necessary funds for teams of one sex in assessing equality of opportunity. §86.41(c)

All recipient institutions must comply as expeditiously as possible; elementary schools must be in full compliance with this section within one year from the effective date of the regulation July 21, 1976, secondary and postsecondary schools within three years July 21, 1978. §86.41(d)

Textbooks and curricular materials. Nothing in the regulation requires or prohibits the use of particular textbooks or curricular materials.
/§86.42/

EMPLOYMENT

General. All education institutions or activities receiving Federal financial assistance must comply with the employment provisions of the regulation. In general, the regulation prohibits:

- exclusion from participation in, denial of the benefits of, or subjection to discrimination on the basis of sex of any person in employment, or recruitment, consideration, or selection thereof, whether full- or part-time;
- the limitation, segregation, or classification of applicants or employees in any way which could adversely affect any employment opportunities or status because of sex;
- entrance by a recipient into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to sex discrimination, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employers of the recipient;
- the granting of preferences to applicants for employment on the basis of attendance at a single sex educational institution, unless the numbers of each sex eligible for such preference are roughly equivalent. /§86.51(a)/

Specifically, discrimination is prohibited in:

- recruitment, advertising, and the process of application for employment;
- hiring, upgrading, promotion, tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;
- rates of pay or any other form of compensation;
- job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;
- the terms of any collective bargaining agreement;
- granting and return from leaves of absence, leave for pregnancy and related conditions, leave for persons of either sex to care for children or dependents;
- fringe benefits;
- selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, sabbaticals and leaves of absence to pursue training;
- employer-sponsored activities, including social or recreational programs;
- any other term, condition, or privilege of employment. /§86.51(b)/

Employment criteria. A recipient may not administer any test or other criterion for employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless it is shown to validly predict successful performance in the position in question and alternative tests or criteria are not available. /§86.52/

Recruitment. A recipient may not discriminate on the basis of sex in the recruitment and hiring of employees. When a recipient is found to be presently discriminating on the basis of sex (or to have so discriminated in the past), it will recruit members of the sex so discriminated against so as to overcome the effects of past or present discrimination. A recipient may not recruit primarily at entities which furnish as applicants predominantly members of one sex. /§86.53/

Compensation. A recipient may not, on the basis of sex, make distinctions in rates of pay or other compensation which result in the payment of wages to employees of one sex at a rate less than that paid to employees of the other sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions. /§86.54/

Job classification. A recipient may not:

- classify a job as being for males or females;
- maintain separate lines of progression, seniority lists, career ladders, or tenure systems based on sex;
- maintain separate lines of progression, etc., which classify persons on the basis of sex unless sex is a bona-fide occupational qualification for the positions in question. /§86.55/

Fringe benefits. Under this regulation, fringe benefits mean any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment. A recipient may not:

- discriminate on the basis of sex with regard to making fringe benefits available to employees, or making fringe benefits available to spouses, families or dependents of employees differently upon the basis of the employee's sex;
- administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits or equal recipient contributions to the plan for members of each sex;
- participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates on such basis. /§86.57(a), (b)/

Marital or parental status. A recipient may not:

- take any employment action concerning the potential marital, parental, or family status of an employee or applicant which treats persons differently on the basis of sex; or
- which is based upon whether an employee or applicant is the head of household or principal wage earner. /§86.57(a)/

Pregnancy. A recipient may not discriminate against or exclude from employment any employee or applicant on the basis of pregnancy or related conditions. Pregnancy and all related conditions must be treated as any other temporary disability for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and reinstatement, and under any fringe benefits offered to employees. If a recipient does not maintain a leave policy for its employees, pregnancy and related conditions must be treated as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began, or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities. /§86.57(b), (c), (d)/

Pre-employment inquiries. A recipient may not make pre-employment inquiry as to the marital status of an applicant for employment. A pre-employment inquiry as to applicant sex may be made, but only if such inquiry is made equally of applicants of both sexes and if the results of the inquiry are not used to discriminate. /§86.30(b)/

Sex as bona-fide occupational qualification. Recipients may make employment decisions prohibited by the regulation provided they can demonstrate that sex is a bona-fide occupational qualification which is essential for carrying out job responsibilities. Such action cannot be based on alleged characteristics or stereotyped characterizations of one or the other sex, or on preference based on sex of the recipient, employees, students, or other persons. This does not prevent consideration of an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex. /§86.61/

ENFORCEMENT PROCEDURES

Pending HEW's final issuance of a consolidated procedural regulation applicable to Title IX and other civil rights legislation administered by the Department, the procedures applicable to enforcement of Title VI of the Civil Rights Act of 1964 will be used to implement the regulation under Title IX. Under these existing procedures, complaints alleging violations of Title IX may be filed by letter to the Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D. C. 20201 or to the appropriate Regional Office of the Department of HEW.

JUDICIAL AND ADMINISTRATIVE AMENDMENTS TO AND INTERPRETATIONS OF TITLE IX

The provisions of the Title IX regulation may be modified in three ways:

- they may be amended through Congressional action
- they may be subject to change as a result of judicial decisions interpreting Title IX and its application
- they may be interpreted or modified by administrative rulings issued by the Office for Civil Rights, Department of Health, Education, and Welfare

The Education Amendments of 1976 amended Title IX to exempt from coverage the following:

- 1) any program or activity relating to Boys State, Boys Nation, Girls State, or Girls Nation
- 2) father-son or mother-daughter activities sponsored by education institutions, provided that opportunities for such activities are reasonably comparable for students of both sexes
- 3) financial assistance awarded by an institution of higher education to an individual because of personal appearance, poise, or talent where eligibility is limited to individuals of one sex only.

The coverage of employment practices by Title IX has been at issue in the recent court case of Romeo Community Schools v. U. S. Department of Health, Education, and Welfare. In this case, the Romeo, Michigan Community Schools sought to stop HEW from enforcing Title IX regulation provisions regarding employee pregnancy and maternity leave. Although the opinion issued by U. S. District Judge Feikens in April 1977 concluded that Title IX was not intended to reach any of the employment practices of recipients, the judgment entered in May to implement the opinion declared invalid only that section of the Title IX regulation dealing with the marital and parental status (including pregnancy) of employee. Furthermore, the Office for Civil Rights has announced its decision to continue enforcement of Title IX regulatory requirements related to employment (including those related to pregnancy) as usual outside the jurisdiction of the U. S. District Court for the Eastern District of Michigan and to appeal the decision by Judge Feikens.

At the writing of this material (January 1978), the Office for Civil Rights is reviewing its rulings so far issued pursuant to Title IX along with requests for interpretation of various regulatory provisions which have been received by the Office since the issuance of the regulation. OCR has stated its intent to issue standardized rulings and interpretations on a variety of questions sometime in the future.

SAMPLE TITLE IX GRIEVANCE PROCEDURE A

Participant Worksheet 4

The procedures outlined herein refer only to the handling of complaints alleging discrimination under equal employment opportunity laws and guidelines. Such complaints could arise in any of the following areas where no discrimination in hiring, placement, duty assignment, promotion, or separation is to be practiced:

Race, color, ethnic or national origin, sex, marital status, religion, age, or family responsibilities, handicap, political affiliation; status with respect to current schooling or lack of formal training not requisite for the position.

In the event an employee institutes a grievance in the above areas, the following steps are to be followed:

1. Employee contact local XYZ County Schools Equal Employment Opportunity Counselor within 15 calendar days of the alleged discriminatory incident. Records of informal sessions will be maintained by the counselor.
2. If informal resolution is not effected, employee may, within 15 calendar days after the terminal interview with the local EEO Counselor file a formal complaint with the superintendent's office.
3. The superintendent assigns the Chief EEO officer to conduct full investigation and recommend proposed disposition to superintendent.
4. EEO Officer notifies complainant of proposed disposition recommended to the superintendent.
5. Based on the file, the superintendent renders his decision and forwards same to complainant and reasons for any rejection or modification of that recommendation.

6. Complainant has right to appeal to the Administrative Services Committee of the Board of Education when appropriate within 15 calendar days of decision of the superintendent.

SAMPLE TITLE IX GRIEVANCE PROCEDURE B

Participant Worksheet 5

Federal Educational Amendments of 1972
Title IX - Part 86.8 (b) - GRIEVANCE PROCEDURE

WHEREAS, the Board of Education of the ABC City School District, in compliance with the rules and regulations pertaining to nondiscrimination on the basis of sex under federally assisted education programs and activities, has established this procedure whereby a complaint related to the violation, interpretation, or application of Title IX Rules and Regulations may be quickly and smoothly resolved, and

WHEREAS, students and employees of the ABC City Schools are eligible to participate in this grievance procedure, and

WHEREAS, the resolution of real or alleged violations shall be motivated toward a solution that is satisfactory to the student or employee, the administration, and the Board of Education;

NOW THEREFORE BE IT RESOLVED, that the following grievance procedures be adopted by the Board of Education of the ABC City School District:

ARTICLE I. Definitions

- 1.1 Grievance: an issue that reaches Level One Procedure. This issue involves the violation, interpretation, or application of any article of Part 86, Rules and Regulations, Title IX, Federal Educational Amendments of 1972.
- 1.2 Student: any person enrolled as a student in any school and/or educational or recreational program authorized by the ABC City Board of Education.
- 1.3 Employee: any full-time or part-time teacher, secretary, clerk, custodian, cleaner, administrator or other person receiving compensation for services rendered the ABC City Board of Education.
- 1.4 Compliance Coordinator: The person designated by the Board of Education to coordinate efforts to comply with Title IX Rules and Regulations.
- 1.5 Superintendent: The Superintendent of Schools or a designated representative.

ARTICLE II.

Level One Procedure

- 2.1 The student or employee who has a complaint, and is unable to solve the issue, may address the complaint in writing to the compliance coordinator.
- 2.2 The coordinator's responsibilities:
 - (a) investigate, within one week, the circumstances of the complaint
 - (b) render a decision, within two weeks after receipt of complaint, and notify the complainant
 - (c) provide the complainant one week to react to the decision before it becomes final.
- 2.3 The complainant's responsibilities:
 - (a) accept the decision, in writing, addressed to the compliance coordinator, or
 - (b) disagree with the decision, in writing, addressed to the compliance coordinator. A Level Two Procedure will be initiated.

ARTICLE III

Level Two Procedure

- 3.1 The compliance coordinator requests the superintendent to review the complaint.
- 3.2 The superintendent will schedule a meeting within one week of the receipt of the request for review. The participants shall be the complainant, the coordinator, and the superintendent.
- 3.3 The superintendent will make a decision within one week which shall be final. The complainant and the coordinator will receive copies of the decision.

GRIEVANCE FORM - Title IX, Part 86, Sex Discrimination

Name of: Student ☐

Employee ☐

School or Department _____

Statement of Complaint:

Solution Suggested by Complainant:

Signature of Student or Employee

Date Submitted _____

Please forward to the Title IX Compliance Coordinator

PH-5
(page 3)

CHECKLIST FOR EVALUATING THE CONTENT
OF GRIEVANCE PROCEDURES

Participant Worksheet 6

Listed below are a number of questions which may be used to evaluate the content of Title IX grievance procedures and determine possible needs for modification. Questions are organized into three sections: initiation and filing of the grievance; processing of the grievance; and basic procedural rights. Remember that these questions do not reflect Title IX requirements; they reflect instead general principles of grievance processing. A "no" answer does not indicate a violation of Title IX but it may indicate an area where further specification is desirable.

Initiation and filing of grievances:

Does the grievance procedure:

1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure? Yes ☐ No ☐
2. Cover all students and employees? Yes ☐ No ☐
3. Clearly state the form and procedure for filing of grievances? Yes ☐ No ☐
4. Specify any applicable time limits for the initiation of a grievance? Yes ☐ No ☐
5. Provide for assistance to grievants in the filing/preparation/processing of a grievance? Yes ☐ No ☐
6. Specify the responsibilities of institutional/agency staff for the receipt and initial handling of grievances? Yes ☐ No ☐
7. Provide methods for informal and prompt resolution of grievances when further processing is not needed? Yes ☐ No ☐

Processing of grievances:

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level? Yes ☐ No ☐
2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step? Yes ☐ No ☐

3. Specify the criteria and procedure for the assignment of initial hearing levels? Yes ☐ No ☐
4. Delineate procedures and responsibilities for notification of all parties at each processing level? Yes ☐ No ☐
5. Delineate timelines for all activities within the grievance procedure? Yes ☐ No ☐
6. Specify the procedures which shall be used in conducting grievance hearings?
 - Yes ☐ No ☐
 - amount of time allocated to each hearing? Yes ☐ No ☐
 - amount of time allocated to each party to the grievance? Yes ☐ No ☐
 - right of each party to representation and assistance? Yes ☐ No ☐
 - right of each party to present witnesses and evidence? Yes ☐ No ☐
 - right of each party to question witnesses? Yes ☐ No ☐
 - roles of persons involved in the hearing? Yes ☐ No ☐
 - right of grievant to determine whether hearing shall be open to the public? Yes ☐ No ☐
 - provisions/requirements for recording the hearing? Yes ☐ No ☐
7. Specify any requirements for submission of written information by grievants or others? Yes ☐ No ☐
8. State the form and timelines for the preparation of grievance decisions? Yes ☐ No ☐
9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions? Yes ☐ No ☐
10. Specify the roles and selection of persons involved in grievance processing? Yes ☐ No ☐

Basic and procedural rights:

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decisionmaking? Yes ☐ No ☐
2. Provide assurances regarding the impartiality of hearing officers? Yes ☐ No ☐
3. Provide for confidentiality of grievance proceedings if so desired by the grievant? Yes ☐ No ☐

4. Provide for grievants' access to relevant institutional/agency records?

Yes____ No____

5. Provide for the protection of grievants and respondents from harassment and entry of information into student and personnel files?

Yes____ No____

6. Provide for confidentiality of grievance records if so desired by the grievant?

Yes____ No____

CHECKLIST FOR EVALUATING THE CONTENT
OF GRIEVANCE PROCEDURES

Participant Worksheet 7

Listed below are a number of questions which may be used to evaluate the content of Title IX grievance procedures and determine possible needs for modification. Questions are organized into three sections: initiation and filing of the grievance; processing of the grievance; and basic procedural rights. Remember that these questions do not reflect Title IX requirements; they reflect instead general principles of grievance processing. A "no" answer does not indicate a violation of Title IX but it may indicate an area where further specification is desirable.

Initiation and filing of grievances:

Does the grievance procedure:

1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure? Yes _____ No _____
2. Cover all students and employees? Yes _____ No _____
3. Clearly state the form and procedure for filing of grievances? Yes _____ No _____
4. Specify any applicable time limits for the initiation of a grievance? Yes _____ No _____
5. Provide for assistance of grievants in the filing/preparation/processing of a grievance? Yes _____ No _____
6. Specify the responsibilities of institutional/agency staff for receipt and initial handling of grievances? Yes _____ No _____
7. Provide methods for informal and prompt resolution of grievances when further processing is not needed? Yes _____ No _____

Processing of grievances:

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level? Yes _____ No _____
2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step? Yes _____ No _____

3. Specify the criteria and procedures for the assignment of initial hearing levels? Yes _____ No _____
4. Delineate procedures and responsibilities for notification of all parties at each processing level? Yes _____ No _____
5. Delineate timelines for all activities within the grievance procedure? Yes _____ No _____
6. Specify the procedures which shall be used in conducting grievance hearings? Yes _____ No _____
 - amount of time allocated to each hearing? Yes _____ No _____
 - amount of time allocated to each party to the grievance? Yes _____ No _____
 - right of each party to representation and assistance? Yes _____ No _____
 - right of each party to present witnesses and evidence? Yes _____ No _____
 - right of each party to question witnesses? Yes _____ No _____
 - roles of persons involved in the hearing? Yes _____ No _____
 - right of grievant to determine whether hearing shall be open to the public? Yes _____ No _____
 - provisions/requirements for recording the hearing? Yes _____ No _____
7. Specify any requirements for submission of written information by grievants or others? Yes _____ No _____
8. State the form and timelines for the preparation of grievance decisions? Yes _____ No _____
9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions? Yes _____ No _____
10. Specify the roles and selection of persons involved in grievance processing? Yes _____ No _____

Basic and procedural rights:

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decisionmaking? Yes _____ No _____
2. Provide assurances regarding the impartiality of hearing officers? Yes _____ No _____
3. Provide for confidentiality of grievance proceedings if so desired by the grievant? Yes _____ No _____

4. Provide for grievants' access to relevant institutional/agency records? Yes _____ No _____
5. Provide for the protection of grievants and respondents from harassment and entry of information into student and personnel files? Yes _____ No _____
6. Provide for confidentiality of grievance records if so desired by the grievant? Yes _____ No _____

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 8

Following this page you will find eight sample Title IX grievance worksheets. (Participant Worksheets 9 - 16) Each of these sample grievances reflects a day-to-day problem in Title IX implementation. Read each grievance carefully. Then, answer the questions on the grievance resolution form provided on the back of the worksheet. You will need to determine:

- whether or not the grievance is a violation of the Title IX regulation;
- your reasons for deciding whether or not it is a violation of the Title IX regulation;
- suggestions for corrective actions;
- suggestions for remedial actions.

Remember:

Corrective actions are those taken to modify a discriminatory policy, program, or practice to attain its compliance with the Title IX regulation

Remedial actions are those taken to overcome the effects of the discriminatory policy, program, or practice

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 9

Name of Grievant Julio Vargas Date of Filing 9/7/76

School or Position Parent of Inez Vargas, student at 5th St. Elem. School

Member, Bethel Board of Education

Address 456 Lorcum Lane

Telephone Number 973-0188

Nature of Grievance It's my understanding that school districts are re-
quired by law to comply with Title IX (Education Amendments of 1972). Initial
requirements include enacting a policy of nondiscrimination and notifying
staff, students, and parents, designating a compliance officer, setting
up a grievance procedure, and conducting an institutional self-evaluation.

I have asked the superintendent repeatedly for evidence that we have met at
least the first year requirements, and for a record of corrective and remedial
steps that have been taken by the school district. His response is that

"we don't have to worry about that until someone comes in to check ar. that's
most unlikely." I'm filing this grievance on behalf of my child who must be
provided notification of the school district's policy of nondiscrimination.

Names and addresses of others involved in the grievance and the nature of
their involvement

Signature of Grievant

Gordon Dickinson, Title IX Coordinator
Person Receiving Grievance

PW-9

RESOLUTION OF GRIEVANCE

(1) Violation: ☐ Yes. ☐ No. (Please give the reasons for your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 10

Name of Grievant Friends of Education Date of Filing 11/10/76

School or Position Sex-Stereotyping Committee, Iliff Area School District

Address 625 Columbine Street, Iliff

Telephone Number 771-3660

Nature of Grievance The Sex-Stereotyping Committee of the Friends of Education has completed a study of the basic reading materials used in our schools and has found the materials to be sex biased and discriminatory. The committee wishes to file a sex discrimination complaint and urges discontinuance of these materials.

Names and addresses of others involved in the grievance and the nature of their involvement.

Signature of Grievant

James Patton, Principal
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation: ☐ Yes. ☐ No. (Please give the reasons for
your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 11

Name of Grievant Flo Perkins Date of Filing 9/25/76

School or Position Matron, Dade Jr. High

Address _____

Telephone Number 229-2671

Nature of Grievance I am the night matron at Dade Jr. High. My job includes general cleaning. I would like to apply for the janitorial position because janitors make \$1.75 per hour more than matrons for just about the same work. I was told that I could not apply for the job because it was too hazardous for a woman. When I asked they told me that the putting up of ladders and replacing of light bulbs would be dangerous for women. I've seen the janitor in my building replace three lightbulbs in the past six months. I can do that if they would let me, but they won't even let me try.

Names and addresses of others involved in the grievance and the nature of their involvement.

Mr. Harry Caldwell, Business Manager, Jamestown City Schools

Signature of Grievant

Jeanne Grant, Title IX Coordinator
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation: ☐ Yes. ☐ No. (Please give the reasons for your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 12

Name of Grievant Nancy Holgate-Wilson Date of Filing 10/14/76

School or Position Counselor, Miller High School

Address _____

Telephone Number 265-3790

Nature of Grievance As a counselor in the district, I'm aware of and sensitive to my responsibilities under Title IX. Several months ago, Bob Hawker, metals shop teacher, told me that if I scheduled any female into his class, she would be back in my office within two weeks. Vennie Lawrence expressed an interest in metals this fall and I scheduled her in a metals class. In ten days she was back, complaining that she was harassed by the teacher and other students. I have responsibilities under Title IX; don't teachers, too?

Names and addresses of others involved in the grievance and the nature of their involvement.

Vennie Lawrence, 10th grade student

Signature of Grievant

Lennie Maxwell, Principal
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation: ☒ Yes. ☐ No. (Please give the reasons for your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 13

Name of Grievant Katrina Breedlove Date of Filing 10/22/76

School or Position Jefferson High School, junior

Address _____

Telephone Number 264-4966

Nature of Grievance I want to attend the auto mechanics course at the
local vocational school. The teacher has said that this is permissible
because all courses are open to boys and girls. The problem is that I am
required to produce a signed statement which states that upon successful
completion of the course I will have a job waiting for me. When I asked
why I needed this I was told that girls have a harder time getting jobs and
that there are a lot of boys waiting to get into the program. I don't
think that boys have to have the same kind of statement. If I have to do
that, shouldn't the boys have to do it also?

Names and addresses of others involved in the grievance and the nature of their involvement.

Dr. Tim Jamieson, Director, Valley View Vocational School

Signature of Grievant

Bernice Morgan, Title IX Coordinator
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation: ☐ Yes. ☐ No. (Please give the reasons for your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 14

Name of Grievant Connie Jacobs Date of Filing 10/18/76

School or Position Junior at Jamestown High School

Address _____

Telephone Number 449-7057

Nature of Grievance Last year I was absent from school for the last two weeks to have a baby. When I returned this fall, Mrs. Johnson told me I couldn't be on the cheerleading squad even though I was on last year because of a rule that girls who have been pregnant can't be in afterschool activities. There's a boy on the football team who brags all the time to everyone about his baby, and no one kicks him off the team even though the coach knows about it. It isn't fair.

Names and addresses of others involved in the grievance and the nature of their involvement.

Mrs. Gloria Johnson, cheerleading squad advisor

Signature of Grievant

William Jefferson, Principal
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation:

☐

Yes.

☐

No.

(Please give the reasons for
your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 15

Name of Grievant Angelo Scalva Date of Filing 9/27/76

School of Position PE teacher, Baker Junior High

Address _____

Telephone Number 794-3889

Nature of Grievance It's my understanding that physical education classes have to be coed to comply with Title IX. Although we have mixed male/female teaching teams, the girls end up at one end of the floor with the female teacher while the boys end up at the other end with the male teacher. It happens for both contact and noncontact activities. When I've asked the physical education department head about this, he indicated that Title IX was ridiculous and that our school has devised this way of getting around the regulation. I'm uncomfortable about my involvement in something which I believe is illegal. Is there any way to resolve this issue?

Names and addresses of others involved in the grievance and the nature of their involvement.

Joe Kennelworth, PE Department Head

Signature of Grievant

Rod Meany, Principal, Baker Junior High
Person Receiving Grievance

PW-15

RESOLUTION OF GRIEVANCE

(1) Violation:

☒

Yes.

☐

No.

(Please give the reasons for
your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

SAMPLE TITLE IX GRIEVANCES

Participant Worksheet 16

Name of Grievant Evelyn Marcus Date of Filing 10/18/76

School of Position PE teacher at Haller Junior High

Address _____

Telephone Number 770-5426

Nature of Grievance Because of the new Title IX regulations, our PE girls' and boys' departments have been consolidated in a unified department of physical education. The former boys' department chairman has been named head of the new department. The problem is that he has issued keys to the equipment room to male staff members only and has placed male staff in charge of supervising all classes (we teach in male/female teams), saying the men need the responsibility for discipline reasons. I think it's very unfair, but the chairman says that Title IX doesn't cover administrative structures and it's my tough luck. I'm not a tenured teacher; how much can I push?

Names and addresses of others involved in the grievances and the nature of their involvement.

Mr. James Thompson, PE department chairman, Haller Junior High

Signature of Grievant

Carlos Montoya, Principal
Person Receiving Grievance

RESOLUTION OF GRIEVANCE

(1) Violation:

☐

Yes.

☐

No.

(Please give the reasons for your decision.)

(2) Corrective action recommended:

(3) Remedial measures recommended:

APPENDICES

SAMPLE TITLE IX GRIEVANCE PROCEDURES A AND B--ANALYSES
(For Participant Worksheets 6 and 7)

Appendix A

Overview:

An attempt to analyze "Sample Title IX Grievance Procedures A and B" according to the "Checklist for Evaluating the Content of Grievance Procedures" makes apparent the range of specificity with which grievance procedures may be written. Of the two sample procedures, procedure "B" is clearly the more specific, and the easier to evaluate on a "yes" or "no" basis. This degree of specificity would also make the procedure easier to use and to administer.

Procedure "A" is particularly weak in the following respects:

- no reference is made to the existence of a procedure for the resolution of student complaints of discrimination
- the role of the local EEO counselor, although apparently critical at the initial stage of grievance processing, is not defined in any way
- the definition and form of a "formal complaint" are never specified, despite the key significance of the formal complaint in the procedure
- no timelines are specified in points 3, 4, and 5 of the procedure
- the form in which grievance appeal must be filed is not stated
- the form in which the final appeal is to be filed is not specified

Procedure "B" lacks specificity regarding:

- timelines for the filing of a complaint
- methods for informal grievance resolution
- the role of the compliance coordinator in Level Two of the Procedure

Neither procedure specifically provides assurances of basic procedural rights for all parties to grievance beyond those provided in progressive levels of grievance decisionmaking. Neither provides for differential levels of initial grievance referral.

"Checklist" responses:

Although the wide range in specificity of procedures leaves room for some differences in interpretation and qualitative analyses of the two procedures is desirable, it may be useful to use the "Checklist" responses provided below as a general measure of analysis of the two procedures.

Initiation and filing of grievances:

Does the grievance procedure:	Procedure <u>A</u>	Procedure <u>B</u>
1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure?	No	Yes
2. Cover all students and employees?	No	Yes
3. Clearly state the form and procedure for filing of grievances?	No	Yes
4. Specify any applicable time limits for the initiation of a grievance?	Yes	No
5. Provide for assistance to grievants in the filing/preparation/processing of a grievance?	No	No
6. Specify the responsibilities of institutional/agency staff for the receipt and initial handling of grievances?	Yes	Yes
7. Provide methods for informal and prompt resolution of grievances when further processing is not needed?	Yes (unclear)	No

Processing of grievances:

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level?	both specify steps; neither uses differential referral	
2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step?	No	Yes

	Procedure <u>A</u>	Procedure <u>B</u>
3. Specify the criteria and procedures for the assignment of initial hearing levels?	neither provides for differential assignment.	
4. Delineation procedures and responsibilities for notification of all parties at each processing level?	No	Yes
5. Delineate timelines for all activities within the grievance procedure?	No	Yes
6. Specify the procedures which shall be used in conducting grievance hearings?	No	No
-amount of time allocated to each hearing?	No	No
-amount of time allocated to each party to the grievance?	No	No
-right of each party to representation and assistance?	No	No
-right of each party to present witnesses and evidence?	No	No
-right of each party to question witnesses?	No	No
-roles of persons involved in the hearing?	No	No
-right of grievant to determine whether hearing shall be open to the public?	No	No
-provisions/requirements for recording the hearing?	Yes	No
7. Specify any requirements for submission of written information by grievants or others?	No	Yes
8. State the form and timelines for the preparation of grievance decisions?	No	Yes
9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions?	No	No
10. Specify the roles and selection of persons involved in grievance processing?	No	No

Basic and procedural rights:

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decisionmaking?	Yes	Yes
2. Provide assurances regarding the impartiality of hearing officers?	No	No
3. Provide for confidentiality of grievance proceedings if so desired by the grievant?	No	No

	Procedure <u>A</u>	Procedure <u>B</u>
4. Provide for grievants' access to relevant institutional/agency records.	No	No
5. Provide for the protection of grievants and respondents from harassment and entry of information into student and personnel files?	No	No
6. Provide for confidentiality of grievance records if so desired by the grievant?	No	No

SAMPLE TITLE IX GRIEVANCE ANALYSES
(For Participant Worksheets 9-16)

Appendix B

In each instance, the answers provided are based on the assumption that the information provided in the grievance has been confirmed.

Julio Vargas

Violation of Title IX - Yes

The failure to notify students, employees, and parents of elementary and secondary students regarding Title IX compliance policies would be a violation of the Title IX regulation. If the other procedural requirements-- designation of a compliance officer, development of a grievance procedure, and completion of an institutional self-evaluation--have not been completed, these would also be Title IX violations. §86.9/ §86.8/ §86.3(c)/

Corrective actions:

- Develop a policy statement regarding nondiscrimination and Title IX compliance and notify all students, employees, and parents of this policy.
- Designate a compliance officer who is responsible for coordinating efforts to comply with Title IX.
- Develop a written grievance procedure for processing Title IX complaints and notify all students and employees of its existence.
- Complete an institutional self-evaluation.

Remedial measures:

- Provide workshops for all personnel to inform them of Title IX requirements.
- Provide briefings or workshops for school board members to inform them of Title IX requirements and their legal responsibilities for compliance.

Friends of Education

Violation of Title IX - No

The Title IX regulation specifically exempts coverage of textbooks and instructional materials and cites the First Amendment's guarantee of freedom of expression as a possible conflict. The preamble to the regulation, however, recognizes the problem of sex bias in textbooks and instructional materials and urges State and local education agencies to take appropriate actions.

It should also be noted that the Title IX regulation does not require the extension of the grievance procedure beyond students and employees, but a local education agency may wish to permit community groups to use the local grievance procedure.

Flo Perkins

Violation of Title IX - Yes

Job classifications may not be sex designated unless a bona fide occupational qualification (BFOQ) based on sex is involved (e.g., locker room attendants). Two factors mitigate against a BFOQ in this case: a) replacing light bulbs is not a major activity of the janitor job, and b) it has not been established that women cannot replace light bulbs. /§86.6T/

Corrective actions:

- Ensure that Ms. Perkins is given fair consideration for the next available janitorial position.
- Modify the job classification to eliminate sex differentiation.

Remedial measures:

- Notify all personnel currently occupying matron or janitorial positions of the change in policy.
- Review all job classifications and modify them as necessary to eliminate sex differentiation.
- Review all job announcements and position descriptions to ensure nondiscrimination.
- Develop written statements of skill requirements for all positions and provide all applicants the opportunity to be tested according to these job-related criteria.

Nancy Holgate-Wilson

Violation of Title IX - Yes

The selective harassment of students on the basis of sex would be a violation of the Title IX regulation. /§86.31(b) (1-4(8)/ /§86.34/

Corrective actions:

- Inform metals class instructor, Bob Hawker, that his behavior violates the Title IX regulation and instruct him to cease his harassment of female students.
- Inform Vennie Lawrence that Bob Hawker has been instructed to cease his harassment and that she may notify the principal if she is harassed again.
- Provide Vennie Lawrence the opportunity to transfer to another metals shop class.
- Develop and disseminate a policy statement regarding teachers' responsibilities for nondiscriminatory treatment of students.

Remedial measures:

- Make a survey to identify those female students who have been interested in metals class or in other sex-segregated courses. Encourage these students to enroll in such classes if they are still interested.
- Develop and disseminate guidelines to instructional staff regarding nondiscriminatory treatment of students on the basis of sex.
- Provide relevant inservice training programs for instructional personnel.
- Provide all students with information and counseling regarding the changing roles of women and men in the world of work and in other life areas, and the importance of considering a variety of course options, both traditional and nontraditional).

Katrina Breedlove

Violation of Title IX - Yes

The use of sex differentiated criteria for admission to a vocational school or program is prohibited by the Title IX regulation. /§86.21(b)(2)/

Corrective actions:

- Admit Katrina Breedlove to the auto mechanics course without a statement of job availability (or require that male student also produce a signed statement of a job opportunity in order to be admitted).
- Prepare and disseminate to all relevant staff a policy statement regarding nondiscriminatory standards for admissions in vocational education schools and courses.

Remedial measures:

- Survey all women in the school (or feeder schools) to identify any interested female students who have been denied admission or discouraged from enrollment in auto mechanics due to the job opportunity guarantee requirement. Females who are identified as having been denied/discouraged from enrollment should be contacted to ascertain current interest and provided opportunity for enrollment in auto mechanics.
- Inform all students of their equal opportunity to enroll in auto mechanics and other vocational education courses.

Connie Jacobs

Violation of Title IX - Yes

Rules which mandate or permit differential treatment of male and female students on the basis of their marital or parental status would be in violation of the Title IX regulation. /§86.40(b)(2)/

Corrective actions:

- Reinstate Connie Jacobs as a member of the cheerleading squad.
- Develop a policy regarding the nondiscriminatory treatment of male and female students on the basis of their marital or parental status in all curricular and extracurricular activities.

Remedial measures:

- Develop and disseminate to all staff guidelines for ensuring nondiscriminatory treatment of male and female students with regard to their marital or parental status.
- Survey staff to ensure that other students have not been denied opportunities in extracurricular activities on the basis of the previous policy regarding parental status. If any instances are identified, inform these students of their right to participate in extracurricular activities.

Angelo Scalva

Violation of Title IX - Yes

Providing parallel sex-segregated activities in coeducational classes would not meet the requirements for integrated physical education courses. Students may be segregated on the basis of sex only for those portions of the class which are devoted to contact sports. In addition, sexually disproportionate groupings which result from the application of appropriate, objective tests of ability are permitted. /§86.34(a-c)/

Corrective actions:

- Issuance of a policy directive requiring:
 - integration of activities for male and female students during physical education classes except during participation in contact sports.
 - assignment of female and male teachers on the basis of skills rather than on the basis of sex.

Remedial measures:

- Development and dissemination of policy guidelines regarding student grouping and assignment of staff in coeducational physical education classes.
- Review of physical education curriculum to ensure provision of a sufficient variety of activities to meet the needs of all students.

Evelyn Marcus

Violation of Title IX - Yes

Assignment of supervisory responsibility on the basis of sex and the issuance of keys to male staff only would be discriminatory. The Title IX regulation does not prescribe any specific administrative structure, but no structure may be used which results in a disparate effect on employees of one sex. /§86.51(a)/ /§86.55(a)/

Corrective actions:

- Require the department chairperson to provide keys to all personnel with legitimate need for access to equipment.
- Require the department chairperson to delineate the requirements for supervision of physical education classes and assign staff to supervisory responsibility on the basis of their qualifications rather than on the basis of sex.

Remedial measures:

- Provide physical education staff guidelines for the nondiscriminatory assignment and treatment of staff.
- Provide relevant inservice training to all physical education staff.